MONTANA LEGISLATIVE HISTORY

Chapter 329 19 97

Bill H _____ S 224 Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Natural Resources		
Hearing Date(s)	3/14	x C	Hearing Date(s)	2/03	x C
	_____	[redacted] C		2/10	x C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	3/21	x C	Out	2/12	x

Did this bill originate in an interim committee? ___ Yes X No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

2/11	REFERRED TO JUDICIARY		
2/14	TAKEN FROM COMMITTEE		
2/14	REREFERRED TO CORRECTIONS SELECT COMMITTEE		
3/04	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/12	2ND READING CONCUR MOTION FAILED	42	57
3/12	MOTION FAILED TO RECONSIDER PREVIOUS ACTION	38	61

SB 223 INTRODUCED BY COLE, ET AL. *LC0634 DRAFTER: MARTIN*

CLARIFY THE AUTHORITY OF THE MONTANA COAL BOARD TO ASSIST LOCAL GOVERNMENTAL UNITS IN PROVIDING SERVICES NECESSITATED BY A SIGNIFICANT DECLINE IN COAL MINING OR IN THE CONSUMPTION OF COAL BY COAL-USING ENERGY COMPLEXES

1/25	INTRODUCED		
1/25	FIRST READING		
1/25	REFERRED TO NATURAL RESOURCES		
1/27	FISCAL NOTE REQUESTED		
2/01	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/03	HEARING		
2/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/14	2ND READING PASSED	49	0
2/15	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/17	FIRST READING		
2/17	REFERRED TO NATURAL RESOURCES		
3/07	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	83	15
3/26	3RD READING CONCURRED	89	10
	RETURNED TO SENATE		
4/02	SIGNED BY PRESIDENT		
4/03	SIGNED BY SPEAKER		
4/03	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 204		
	EFFECTIVE DATE: 07/01/97		

SB 224 INTRODUCED BY COLE, ET AL. *LC0084 DRAFTER: EVERTS*

REVISE THE MONTANA MAJOR FACILITY SITING ACT

1/25	INTRODUCED		
1/25	FIRST READING		
1/25	REFERRED TO NATURAL RESOURCES		
1/27	FISCAL NOTE REQUESTED		
1/30	FISCAL NOTE RECEIVED		
1/31	FISCAL NOTE PRINTED		
2/03	HEARING		
2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	29	18
2/19	3RD READING PASSED	32	18
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO NATURAL RESOURCES		
3/14	HEARING		
3/25	COMMITTEE REPORT—BILL CONCURRED		
4/03	2ND READING CONCURRED	61	39
4/04	3RD READING CONCURRED	60	39

RETURNED TO SENATE
4/10 SIGNED BY PRESIDENT
4/10 SIGNED BY SPEAKER
4/11 TRANSMITTED TO GOVERNOR
4/21 SIGNED BY GOVERNOR
CHAPTER NUMBER 329
EFFECTIVE DATE: 07/01/97

SB 225 INTRODUCED BY DEVLIN, ET AL. *LC1122 DRAFTER: MCCLURE*

ELIMINATE ARBITRATION WHEN AN IMPASSE IS REACHED IN THE COURSE OF COLLECTIVE BARGAINING BETWEEN A PUBLIC EMPLOYER AND A FIREFIGHTERS' ORGANIZATION

1/25 INTRODUCED
1/25 FIRST READING
1/25 REFERRED TO LABOR & EMPLOYMENT RELATIONS
2/11 HEARING
3/03 MISSED DEADLINE FOR 45TH DAY TRANSMITTAL
DIED IN COMMITTEE

SB 226 INTRODUCED BY DOHERTY *LC0120 DRAFTER: CAMPBELL*

REQUIRE THE COMMISSIONER OF INSURANCE TO PROMULGATE RULES PRESCRIBING INFORMATION THAT MUST BE DELIVERED TO A PROSPECTIVE ANNUITANT AT THE TIME OF SALE

1/27	INTRODUCED		
1/27	FIRST READING		
1/27	REFERRED TO BUSINESS & INDUSTRY		
2/07	HEARING		
2/13	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/15	2ND READING PASSED	50	0
2/17	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/21	FIRST READING		
2/21	REFERRED TO BUSINESS & LABOR		
3/12	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED		
4/03	2ND READING CONCURRED	77	21
4/04	3RD READING CONCURRED	77	22
	RETURNED TO SENATE		
4/08	SIGNED BY PRESIDENT		
4/08	SIGNED BY SPEAKER		
4/09	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 260		
	EFFECTIVE DATE: 10/01/97		

SB 227 INTRODUCED BY DOHERTY, ET AL. *LC0058 DRAFTER: MACMASTER*

LIMIT RENT INCREASES ON SPACES IN MOBILE HOME PARKS

1/27 INTRODUCED
1/27 FIRST READING
1/27 REFERRED TO JUDICIARY
2/06 HEARING
2/12 TABLED IN COMMITTEE
3/03 MISSED DEADLINE FOR 45TH DAY TRANSMITTAL
DIED IN COMMITTEE

Senate BILL NO. 224

INTRODUCED BY Cole, Beaudry, Jabs, Devlin, Stutzman, Knox, Stovall, Holland, Taylor, Story.

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA MAJOR FACILITY SITING ACT; AMENDING SECTIONS 75-20-102, 75-20-104, 75-20-201, 75-20-207, 75-20-208, 75-20-211, 75-20-213, 75-20-215, 75-20-216, 75-20-225, 75-20-226, 75-20-301, 75-20-302, 75-20-303, 75-20-304, 75-20-402, 75-20-403, 75-20-406, 75-20-1202, AND 75-20-1205, MCA; REPEALING SECTIONS 75-20-202, 75-20-205, 75-20-218, 75-20-220, 75-20-221, 75-20-222, 75-20-227, 75-20-501, 75-20-502, AND 75-20-503, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY PROVISION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Expedited review.** (1) The department shall issue a certification decision within 180 days from the date on which an application is considered complete for a facility that:

(a) is unlikely to result in significant adverse environmental impacts based on the criteria listed in [section 2]; or

(b) is presently in existence and proposed for upgrade, reconstruction, or relocation and is unlikely to result in significant impacts pursuant to [section 2].

(2) A facility that qualifies for expedited review is exempt from undergoing an alternative siting study, except as provided in 75-1-201.

NEW SECTION. **Section 2. Criteria for identifying proposed facilities that qualify for expedited review.** (1) In order for a facility to qualify for expedited review under [section 1], the department shall make a significance determination of the impacts associated with a proposed facility. This determination is the basis of the department's decision concerning whether the proposed facility qualifies for expedited review.

(2) The department shall consider the following criteria in determining the significance of each impact that the proposed facility has on the quality of the human environment:

(a) the severity, duration, geographic extent, and frequency of occurrence of the impact;

(b) (i) the probability that the impact will occur if the proposed action occurs; or

(ii) reasonable assurance in keeping with the potential severity of an impact that the impact will not occur;

(c) growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts;

(d) the quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources or values;

(e) the importance to the state and to society of each environmental resource or value that would be affected;

(f) any precedent that would be set as a result of an impact of the proposed action that would commit the department to future actions with significant impacts or to a decision in principle about future actions;

(g) potential conflict with local, state, or federal laws, requirements, or formal plans; and

(h) the degree to which the impacts on the human environment are likely to create a high level of public concern.

(3) An impact may be adverse, beneficial, or both. If none of the adverse effects of the impact are significant, expedited review is required.

NEW SECTION. **Section 3. Board review of department decisions.** A person aggrieved by the final decision of the department on an application for a certificate or the issuance of an air or water quality decision, opinion, order, certification, or permit under this chapter may appeal the decision to the board.

Section 4. Section 75-20-102, MCA, is amended to read:

"**75-20-102. Policy and legislative findings.** (1) It is the constitutionally declared policy of this state to maintain and improve a clean and healthful environment for present and future generations, to protect the environmental life-support system from degradation and prevent unreasonable depletion and degradation of natural resources, and to provide for administration and enforcement to attain these objectives.

(2) The legislature finds that the construction of additional power or energy conversion facilities may be necessary to meet the increasing need for electricity, energy, and other products and that these facilities have an effect on the environment, an impact on population concentration, and an effect on the

welfare of the citizens of this state. Therefore, it is necessary to ensure that the location, construction, and operation of power and energy conversion facilities will not produce ~~minimal~~ unacceptable adverse effects on the environment and upon the citizens of this state by providing that a power or energy conversion facility may not be constructed or operated within this state without a certificate of environmental compatibility ~~and public need~~ acquired pursuant to this chapter.

(3) The legislature also finds that it is the purpose of this chapter to:

(a) ensure protection of the state's environmental resources, including but not limited to air, water, animals, plants, and soils;

(b) ensure consideration of socioeconomic impacts;

(c) provide citizens with the opportunity to participate in facility siting decisions; and

(d) establish a coordinated and efficient method for the processing of all authorizations required for regulated facilities under this chapter."

Section 5. Section 75-20-104, MCA, is amended to read:

"**75-20-104. (Temporary) Definitions.** In this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Addition thereto" means the installation of new machinery and equipment that would significantly change the conditions under which the facility is operated.

(2) "Application" means an application for a certificate submitted in accordance with this chapter and the rules adopted under this chapter.

(3) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, transmission substations, storage ponds, reservoirs, and any other device or equipment associated with the production or delivery of the energy form or product produced by a facility, except that the term does not include a facility or a natural gas or crude oil gathering line 17 inches or less in inside diameter.

(4) "Board" means the board of environmental review provided for in 2-15-3502.

(5) "Certificate" means the certificate of environmental compatibility ~~and public need~~ issued by the ~~board~~ department under this chapter that is required for the construction or operation of a facility.

(6) "Commence to construct" means:

(a) any clearing of land, excavation, construction, or other action that would affect the environment

of the site or route of a facility but does not mean changes needed for temporary use of sites or routes for nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation conditions;

(b) the fracturing of underground formations by any means if ~~such~~ the activity is related to the possible future development of a gasification facility or a facility employing geothermal resources but does not include the gathering of geological data by boring of test holes or other underground exploration, investigation, or experimentation;

(c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or rights-of-way upon or over which a facility may be constructed;

(d) the relocation or upgrading of an existing facility defined by subsection ~~(8)(b)~~ (8)(c) or ~~(8)(c)~~ (8)(d), including upgrading to a design capacity covered by subsection ~~(8)(b)~~ (8)(c), except that the term does not include normal maintenance or repair of an existing facility.

(7) "Department" means the department of environmental quality provided for in 2-15-3501.

(8) "Facility" means:

(a) except for crude oil and natural gas refineries and those facilities subject to The Montana Strip and Underground Mine Reclamation Act, each plant, unit, or other facility and associated facilities designed for or capable of:

(i) generating ~~150~~ 250 megawatts of electricity or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant;

(ii) producing 25 million cubic feet or more of gas derived from coal per day or any addition thereto, except pollution control facilities approved by the department and added to an existing plant;

(iii) producing 25,000 barrels of liquid hydrocarbon products per day or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant;

(iv) enriching uranium minerals or any addition thereto; or

(v) for purposes of 75-20-204 only, generating 50 megawatts of hydroelectric power or more or any addition thereto;

(b) each plant, unit, or other facility and associated facilities generating less than 250 megawatts that would be defined in 75-20-104(8)(a):

(i) emitting 300 tons a year of particulate matter at 10 microns or less;

(ii) that is a solid fuel burning unit removing less than 90% of the sulfur dioxide emissions;

(iii) located in or directly affecting:

(A) a class I airshed as designated pursuant to 42 U.S.C. 7470, et seq.;

(B) a class I river or stream as designated pursuant to 33 U.S.C. 1251, et seq.;

(C) habitat used by a threatened or endangered species of plant or animal as designated pursuant to 16 U.S.C. 1531, et seq.; or

(D) one of the following exclusion areas:

(I) national wilderness areas designated pursuant to 16 U.S.C. 1131, et seq.;

(II) national primitive areas;

(III) national parks as designated pursuant to 16 U.S.C. 1a-1, et seq.;

(IV) rivers in the national wild and scenic river system as designated pursuant to 16 U.S.C. 1271, et seq.;

(V) national wildlife refuges and ranges as designated pursuant to 16 U.S.C. 668dd, et seq.; or

(iv) that would require a permanent workforce greater than 500 workers.

~~(b)~~(c) each electric transmission line and associated facilities of a design capacity of more than 69 kilovolts, except that the term:

(i) does not include an electric transmission line and associated facilities of a design capacity of 230 kilovolts or less and 10 miles or less in length; and

(ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts ~~and up to and including 115~~ but less than 230 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

~~(c)~~(d) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter and 30 miles in length, and associated facilities;

~~(d)~~(e) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to 25 million ~~Btu~~ Btu's per hour or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant;

~~(e)~~(f) any underground in situ gasification of coal; or

(g) an energy-related project for which the department has granted a petition pursuant to 75-20-201(5).

investigation, or experimentation;

(c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or rights-of-way upon or over which a facility may be constructed;

(d) the relocation or upgrading of an existing facility defined by subsection ~~(8)(b)~~ (8)(c) or ~~(8)(c)~~ (8)(d), including upgrading to a design capacity covered by subsection ~~(8)(b)~~ (8)(c), except that the term does not include normal maintenance or repair of an existing facility.

(7) "Department" means the department of environmental quality provided for in 2-15-3501.

(8) "Facility" means:

(a) except for crude oil and natural gas refineries and those facilities subject to The Montana Strip and Underground Mine Reclamation Act, each plant, unit, or other facility and associated facilities designed for or capable of:

(i) generating ~~50~~ 250 megawatts of electricity or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant;

(ii) producing 25 million cubic feet or more of gas derived from coal per day or any addition thereto, except pollution control facilities approved by the department and added to an existing plant;

(iii) producing 25,000 barrels of liquid hydrocarbon products per day or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant;

(iv) enriching uranium minerals or any addition thereto; or

(v) for purposes of 75-20-204 only, generating 50 megawatts of hydroelectric power or more or any addition thereto;

(b) each plant, unit, or other facility and associated facilities generating less than 250 megawatts that would be defined in 75-20-104(8)(a):

(i) emitting 300 tons a year of particulate matter at 10 microns or less;

(ii) that is a solid fuel burning unit removing less than 90% of the sulfur dioxide emissions;

(iii) located in or directly affecting:

(A) a class I airshed as designated pursuant to 42 U.S.C. 7470, et seq.;

(B) a class I river or stream as designated pursuant to 33 U.S.C. 1251, et seq.;

(C) habitat used by a threatened or endangered species of plant or animal as designated pursuant to 16 U.S.C. 1531, et seq.; or

(D) one of the following exclusion areas:

(9) "Person" means any individual, group, firm, partnership, corporation, limited liability company, cooperative, association, government subdivision, government agency, local government, or other organization or entity.

(10) "Transmission substation" means any structure, device, or equipment assemblage, commonly located and designed for voltage regulation, circuit protection, or switching necessary for the construction or operation of a proposed transmission line.

(11) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use.

75-20-104. (Effective July 1, 1997) Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Addition thereto" means the installation of new machinery and equipment that would significantly change the conditions under which the facility is operated.

(2) "Application" means an application for a certificate submitted in accordance with this chapter and the rules adopted under this chapter.

(3) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, transmission substations, storage ponds, reservoirs, and any other device or equipment associated with the production or delivery of the energy form or product produced by a facility, except that the term does not include a facility or a natural gas or crude oil gathering line 17 inches or less in inside diameter.

(4) "Board" means the board of environmental review provided for in 2-15-3502.

(5) "Certificate" means the certificate of environmental compatibility ~~and public need~~ issued by the ~~board~~ department under this chapter that is required for the construction or operation of a facility.

(6) "Commence to construct" means:

(a) any clearing of land, excavation, construction, or other action that would affect the environment of the site or route of a facility but does not mean changes needed for temporary use of sites or routes for nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation conditions;

(b) the fracturing of underground formations by any means if ~~such~~ the activity is related to the possible future development of a gasification facility or a facility employing geothermal resources but does not include the gathering of geological data by boring of test holes or other underground exploration,

(I) national wilderness areas designated pursuant to 16 U.S.C. 1131, et seq.;

(II) national primitive areas;

(III) national parks as designated pursuant to 16 U.S.C. 1a-1, et seq.;

(IV) rivers in the national wild and scenic river system as designated pursuant to 16 U.S.C. 1271, et seq.; or

(V) national wildlife refuges and ranges as designated pursuant to 16 U.S.C. 668dd, et seq.; or

(iv) that would require a permanent workforce greater than 500 workers.

~~(b)~~(c) each electric transmission line and associated facilities of a design capacity of more than 69 kilovolts, except that the term:

(i) does not include an electric transmission line and associated facilities of a design capacity of 230 kilovolts or less and 10 miles or less in length; and

(ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts ~~and up to and including 115~~ but less than 230 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

~~(c)~~(d) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter and 30 miles in length, and associated facilities;

~~(d)~~(e) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to 25 million ~~Btu~~ Btu's per hour or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant;

~~(e)~~(f) any underground in situ gasification of coal; or

(g) an energy-related project for which the department has granted a petition pursuant to 75-20-201(5).

(9) "Person" means any individual, group, firm, partnership, corporation, limited liability company, cooperative, association, government subdivision, government agency, local government, or other organization or entity.

(10) "Transmission substation" means any structure, device, or equipment assemblage, commonly located and designed for voltage regulation, circuit protection, or switching necessary for the construction or operation of a proposed transmission line.

(11) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."

Section 6. Section 75-20-201, MCA, is amended to read:

"**75-20-201. Certificate required -- operation in conformance -- certificate for nuclear facility -- applicability to federal facilities.** (1) A person may not commence to construct a facility in the state without first applying for and obtaining a certificate of environmental compatibility ~~and public need~~ issued with respect to the facility by the ~~board~~ department.

(2) A facility with respect to which a certificate is issued may not ~~thereafter~~ be constructed, operated, or maintained except in conformity with the certificate and any terms, conditions, and modifications contained ~~therein~~ within the certification.

(3) A certificate may only be issued pursuant to this chapter.

(4) If the ~~board~~ department decides to issue a certificate for a nuclear facility, it shall report ~~such~~ the recommendation to the applicant and may not issue the certificate until ~~such~~ the recommendation is approved by a majority of the voters in a statewide election called by initiative or referendum according to the laws of this state.

(5) A person that proposes to construct an energy-related project that is not defined as a facility pursuant to 75-20-104(8) may petition the department to review the energy- related project under the provisions of this chapter.

~~(5)~~(6) This chapter applies, to the fullest extent allowed by federal law, to all federal facilities and to all facilities over which an agency of the federal government has jurisdiction."

Section 7. Section 75-20-207, MCA, is amended to read:

"**75-20-207. Notice requirement for certain electric transmission lines.** Whenever a person plans to construct an electric transmission line or associated facilities ~~of a design capacity of more than 69 kilovolts and up to and including 115 kilovolts that is more than 10 miles in length~~ under the provisions of 75-20-104(8)(c)(ii), it must provide public notice to persons residing in the area in which any portion of the electric transmission facility may be located and to the department. This notice must be made no less than 180 days prior to the commencement of acquisition of right-of-way by publication of a summary describing the transmission facility and the proposed location of the facility in those newspapers that will substantially

inform those persons of the construction and by mailing ~~such~~ a summary to the department. The notice must inform the property owners of their rights under this chapter concerning the location of the facility and that more information concerning their rights may be obtained from the department."

Section 8. Section 75-20-208, MCA, is amended to read:

"**75-20-208. Certain electric transmission lines -- verification of requirements.** (1) Prior to constructing a transmission line under 75-20-104~~(8)(b)(iii)~~(8)(c)(ii), the person planning to construct the line shall provide to the department within 36 months of the date of the public notice provided under 75-20-207, unless extended by the ~~board~~ department for good cause:

(a) copies of the right-of-way agreements or options for a right-of-way containing sufficient information to establish landowner consent to construct the line; and

(b) sufficient information for the department to verify ~~to the board~~ that the requirements of 75-20-104~~(8)(b)(ii)~~(8)(c)(ii) are satisfied.

(2) The provisions of 75-20-104~~(8)(b)(ii)~~(8)(c)(ii) do not apply to any facility for which public notice under 75-20-207 has been given but for which the requirements of subsection (1) of this section have not been complied with."

Section 9. Section 75-20-211, MCA, is amended to read:

"**75-20-211. Application -- filing and contents -- proof of service and notice.** (1) (a) An applicant shall file with the department an application for a certificate under this chapter and for the permits required under the laws administered by the department in the form that ~~the board requires~~ is required under applicable rules, containing the following information:

(i) a description of the proposed location and of the facility to be built;

(ii) a summary of any studies that have been made of the environmental impact of the facility;

~~(iii) a statement explaining the need for the facility;~~

~~(iv)~~(iii) for facilities defined in 75-20-104~~(8)(b)~~(8)(c) and ~~(8)(c)~~ (8)(d), a description of reasonable alternate locations for the facility, a general description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the proposed location is best suited for the facility;

~~(v)~~(iv) (A) for facilities as defined in 75-20-104~~(8)(b)~~(8)(c) and ~~(8)(c)~~ (8)(d), baseline data for the primary and reasonable alternate locations; or

(B) for facilities as defined in 75-20-104(8)(a), ~~(8)(d)~~ (8)(b), (8)(e), and ~~(8)(e)~~ (8)(f), baseline data for the proposed location and, at the applicant's option, any alternative locations acceptable to the applicant for siting the facility;

~~(vi)~~(v) at the applicant's option, an environmental study plan to satisfy the requirements of this chapter; and

~~(vii)~~(vi) other information that the applicant considers relevant or that ~~the board by order or rule or~~ the department by order or rule may require.

(b) A copy or copies of the studies referred to in subsection (1)(a)(ii) must be filed with the department, if ordered, and must be available for public inspection.

(2) An application may consist of an application for two or more facilities in combination that are physically and directly attached to each other and are operationally a single operating entity.

(3) An application must be accompanied by proof of service of a copy of the application on the chief executive officer of each unit of local government, county commissioner, city or county planning boards, and federal agencies charged with the duty of protecting the environment or of planning land use in the area in which any portion of the proposed facility is proposed or is alternatively proposed to be located and on the following state government agencies:

(a) environmental quality council;

(b) department of public service regulation;

(c) department of fish, wildlife, and parks;

(d) department of natural resources and conservation;

(e) department of commerce;

(f) department of transportation.

(4) The copy of the application must be accompanied by a notice specifying the date on or about which the application is to be filed.

(5) An application must also be accompanied by proof that public notice of the application was given to persons residing in the area in which any portion of the proposed facility is proposed or is alternatively proposed to be located, by publication of a summary of the application in those newspapers that will substantially inform those persons of the application."

Section 10. Section 75-20-213, MCA, is amended to read:

"**75-20-213. Supplemental material -- amendments.** (1) An application for an amendment of an application or a certificate must be in the form and contain the information that the ~~board~~ department by rule or ~~the department~~ by order prescribes. Notice of an application must be given as set forth in 75-20-211(3) through (5).

(2) An application may be amended by an applicant any time prior to the department's recommendation. If the proposed amendment is such that it prevents the department or the agencies listed in 75-20-216~~(5)~~(6) from carrying out their duties and responsibilities under this chapter, the department may require additional filing fees as the department determines necessary, or the department may require a new application and filing fee.

(3) The applicant shall submit supplemental material in a timely manner as requested by the department or as offered by the applicant to explain, support, or provide the detail with respect to an item described in the original application, without filing an application for an amendment. The department's determination as to whether information is supplemental or whether an application for amendment is required is conclusive."

Section 11. Section 75-20-215, MCA, is amended to read:

"**75-20-215. Filing fee -- accountability -- refund -- use.** (1) (a) A filing fee must be deposited in the state special revenue fund for the use of the department in administering this chapter. The applicant shall pay to the department a filing fee as provided in this section based upon the department's estimated costs of processing the application under this chapter. The fee may not exceed the following scale based upon the estimated cost of the facility:

(i) 4% of any estimated cost up to $1 million; plus

(ii) 1% of any estimated cost over $1 million and up to $20 million; plus

(iii) 0.5% of any estimated cost over $20 million and up to $100 million; plus

(iv) 0.25% of any amount of estimated cost over $100 million and up to $300 million; plus

(v) 0.125% of any amount of estimated cost over $300 million and up to $1 billion; plus

(vi) 0.05% of any amount of estimated cost over $1 billion.

(b) The department may allow in its discretion a credit against the fee payable under this section for the development of information or providing of services required under this chapter or required for preparation of an environmental impact statement under the Montana or national environmental policy acts.

The applicant may submit the information to the department, together with an accounting of the expenses incurred in preparing the information. The department shall evaluate the applicability, validity, and usefulness of the data and determine the amount that may be credited against the filing fee payable under this section. Upon 30 days' notice to the applicant, this credit may at any time be reduced if the department determines that it is necessary to carry out its responsibilities under this chapter.

(2) (a) The department may contract with an applicant for the development of information, provision of services, and payment of fees required under this chapter. The contract may continue an agreement entered into pursuant to 75-20-106. Payments made to the department under a contract must be credited against the fee payable pursuant to this section. Notwithstanding the provisions of this section, the revenue derived from the filing fee must be sufficient to enable the department, the board, and the agencies listed in 75-20-216~~(5)~~(6) to carry out their responsibilities under this chapter. The department may amend a contract to require additional payments for necessary expenses up to the limits set forth in subsection (1)(a) upon 30 days' notice to the applicant. The department and applicant may enter into a contract that exceeds the scale provided in subsection (1)(a).

(b) If a contract is not entered into, the applicant shall pay the filing fee in installments in accordance with a schedule of installments developed by the department, provided that ~~no one~~ an installment may not exceed 20% of the total filing fee provided for in subsection (1).

(3) The estimated cost of upgrading an existing transmission substation may not be included in the estimated cost of a proposed facility for the purpose of calculating a filing fee.

(4) If an application consists of a combination of two or more facilities, the filing fee must be based on the total estimated cost of the combined facilities.

(5) The applicant is entitled to an accounting of money expended and to a refund with interest at the rate of 6% a year of that portion of the filing fee not expended by the department in carrying out its responsibilities under this chapter. A refund must be made after all administrative and judicial remedies have been exhausted by all parties to the certification proceedings.

(6) The revenue derived from filing fees must be used by the department in compiling the information required for rendering a decision on a certificate and for carrying out its and the board's other responsibilities under this chapter."

Section 12. Section 75-20-216, MCA, is amended to read:

"**75-20-216. Study, evaluation, and report on proposed facility -- assistance by other agencies.** (1) After receipt of an application, the department shall within ~~90~~ 60 days notify the applicant in writing that:

(a) the application is in compliance and is accepted as complete; or

(b) the application is not in compliance and shall list the deficiencies. Upon correction of these deficiencies and resubmission by the applicant, the department shall within 30 days notify the applicant in writing that the application is in compliance and is accepted as complete.

(2) Upon receipt of an application complying with 75-20-211 through 75-20-213, 75-20-215, and this section, the department shall commence an intensive study and evaluation of the proposed facility and its effects, considering all applicable criteria listed in 75-20-301 ~~and 75-20-503~~, and shall issue a decision, opinion, order, certification, or permit as provided in subsection (3). The department shall use, to the extent that it considers applicable, valid and useful existing studies and reports submitted by the applicant or compiled by a state or federal agency.

(3) ~~The~~ Except as provided for in [section 1], the department shall issue within 1 year following the date of acceptance of an application ~~and the board of environmental review, if applicable, within an additional 6 months shall issue~~ any decision, opinion, order, certification, or permit required under the laws administered by the department ~~or the board of environmental review and this chapter~~. The department ~~and the board~~ shall determine compliance with all standards, permit requirements, and implementation plans under ~~their~~ its jurisdiction for the proposed location or any proposed alternate location in ~~their~~ its decision, opinion, order, certification, or permit. The decision, opinion, order, certification, or permit, with or without conditions, is conclusive on all matters that the department ~~and the board administer, and on any of the criteria specified in 75-20-503(2) through (7) that are a part of the determinations made under the laws administered by the department and the board~~ administers. Although the decision, opinion, order, certification, or permit issued under this subsection is conclusive, the ~~board~~ department retains authority to make the determination required under 75-20-301~~(2)(c)~~(1)(c). The decision, opinion, order, certification, or permit must be used in the final site selection process. Prior to the issuance of a preliminary decision by the department and pursuant to rules adopted by the ~~board~~ department, the department shall provide an opportunity for public review and comment.

(4) Within ~~22 months~~ 1 year following acceptance of an application for a facility as defined in 75-20-104(8)(a), ~~and~~ (8)(b), ~~(8)(d)~~ (8)(e), and (8)(g) and for a facility as defined in 75-20-104~~(8)(b)~~(8)(c)

and ~~(8)(c)~~ (8)(d) that is more than 30 miles in length and within ~~1 year~~ 6 months for a facility as defined in 75-20-104~~(8)(b)~~(8)(c) and ~~(8)(c)~~ (8)(d) that is 30 miles or less in length, the department shall ~~make a report to the board~~ issue a report that must contain the department's studies, evaluations, recommendations, other pertinent documents resulting from its study and evaluation, and an environmental impact statement or analysis prepared pursuant to the Montana Environmental Policy Act, if any. If the application is for a combination of two or more facilities, the department shall ~~make its report to the board~~ issue its report within the greater of the lengths of time provided for in this subsection for either of the facilities.

(5) For projects subject to joint review by the department and a federal land management agency, the department's certification decision may be timed to correspond to the record of decision issued by the participating federal agency.

~~(5)~~(6) The departments of transportation; commerce; fish, wildlife, and parks; natural resources and conservation; revenue; and public service regulation shall report to the department information relating to the impact of the proposed site on each department's area of expertise. The report may include opinions as to the advisability of granting, denying, or modifying the certificate. The department shall allocate funds obtained from filing fees to the departments making reports to reimburse them for the costs of compiling information and issuing the required report."

Section 13. Section 75-20-225, MCA, is amended to read:

"75-20-225. Certificate renewal -- application -- contents -- filing fee. (1) A certificate holder for a facility, as defined in 75-20-104(8)(a)(i), may apply for renewal of a certificate prior to the certificate lapsing.

(2) An applicant for a renewal of a certificate shall file with the department an application in the form that the board requires by rule.

(3) An application for renewal of a certificate must include updated information on the matters listed in 75-20-211(1)(a) that have changed since the original application and other information that the board requires by rule for certification. The matters listed in 75-20-211~~(1)(a)(iv)~~(1)(a)(iii) and ~~(1)(a)(v)~~ (1)(a)(iv) for the alternate locations must be updated only if the board determines that within the certified location significant changes have occurred to warrant a review of alternate locations.

(4) An application filed under subsection (1) must comply with the provisions of 75-20-211(3)

through (5).

(5) Except as provided in this subsection, the applicant shall pay a filing fee to the department in accordance with 75-20-215(2). The fee is in addition to any previous filing fee paid for processing the original application for a certificate pursuant to 75-20-215. The fee may not exceed the following scale:

(a) 0.125% of any estimated cost up to $300 million; plus

(b) 0.063% of any estimated cost over $300 million."

Section 14. Section 75-20-226, MCA, is amended to read:

"**75-20-226. Renewal study.** (1) Upon receipt of a completed application for renewal of a certificate, the department shall evaluate the updated information and any significant changes in ~~need,~~ alternatives, technology, baseline environment, and the environmental impacts of a facility that have taken place since the original study performed in granting the certificate, considering the applicable criteria listed in 75-20-301 ~~and 75-20-503~~ and the original ~~board~~ department findings and certificate conditions.

(2) The department ~~and the board~~, within 10 months of acceptance of a complete renewal application, shall complete the statutory duties established in 75-20-216(3). Any air or water quality decision, opinion, order, certification, or permit must be used as part of ~~their~~ its decisionmaking process under ~~75-20-227 and~~ subsection (3) ~~of this section~~.

(3) Within 12 months following acceptance of a complete application for renewal of a certificate, the department shall ~~make a report to the board~~ issue a report. This report must contain the department's studies, evaluations, recommendations, and other pertinent documents resulting from its study and evaluation and an updated environmental impact statement or analysis pursuant to the Montana Environmental Policy Act. The department's report must be directed to the question of whether the original ~~board~~ department findings and conditions have been or need to be altered as a result of any significant changes in ~~need,~~ alternatives, technology, baseline environment, or environmental impact since issuance of the certificate, considering the applicable criteria listed in 75-20-301 ~~and 75-20-503~~.

(4) The departments of transportation; commerce; fish, wildlife, and parks; natural resources and conservation; revenue; and public service regulation shall report to the department information relating to the impact of the proposed site on each department's area of responsibility. The report may include opinions as to the advisability of renewing the certificate. The department shall allocate funds obtained from filing fees to the departments making reports to reimburse them for the cost of compiling information and

issuing the required reports."

Section 15. Section 75-20-301, MCA, is amended to read:

"**75-20-301. Decision of ~~board~~ department -- findings necessary for certification.** (1) ~~Within 60 days after submission of the recommended decision by the hearing examiner, the board shall make complete findings, issue an opinion, and render a decision upon the record, either granting or denying the application as filed or granting it upon the terms, conditions, or modifications of the construction, operation, or maintenance of the facility that the board considers appropriate.~~ For facilities defined in 75-20-104(8)(c) and (d),

~~(2) The board may not grant a certificate unless it finds and determines~~ the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

(a) the basis of the need for the facility;

(b) the nature of the probable environmental impact;

(c) that the facility minimizes adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives;

~~(d) each of the criteria listed in 75-20-503;~~

~~(e)~~(d) in the case of an electric, gas, or liquid transmission line or aqueduct:

(i) what part, if any, of the line or aqueduct will be located underground;

(ii) that the facility is consistent with regional plans for expansion of the appropriate grid of the utility systems serving the state and interconnected utility systems; and

(iii) that the facility will serve the interests of utility system economy and reliability;

~~(f)~~(e) that the location of the facility as proposed conforms to applicable state and local laws and regulations, except that the ~~board~~ department may refuse to apply any local law or regulation if it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, of factors of cost or economics, or of the needs of consumers, whether located inside or outside the directly affected government subdivisions;

~~(g)~~(f) that the facility will serve the public interest, convenience, and necessity;

~~(h)~~(g) that the department or board has issued any necessary air or water quality decision, opinion, order, certification, or permit as required by 75-20-216(3); and

~~(i)~~(h) that the use of public lands for location of the facility was evaluated and public lands were selected whenever their use is as economically practicable as the use of private lands ~~and compatible with the environmental criteria listed in 75-20-503~~.

~~(3)~~(2) In determining that the facility will serve the public interest, convenience, and necessity under subsection ~~(2)(g)~~ (1)(f), the ~~board~~ department shall consider:

(a) the items listed in subsections ~~(2)(a)~~ (1)(a) and ~~(2)(b)~~ (1)(b);

(b) the benefits to the applicant and the state resulting from the proposed facility;

(c) the effects of the economic activity resulting from the proposed facility;

(d) the effects of the proposed facility on the public health, welfare, and safety;

(e) any other factors that it considers relevant.

~~(4) Considerations of need, public need, or public convenience and necessity and demonstration thereof by the applicant apply only to utility facilities described in 75-20-104(8)(a)(i), (8)(b), (8)(c), and (8)(d).~~

(3) For facilities defined in 75-20-104(8)(a) and (8)(b), the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

(a) that the facility or alternative incorporates all reasonable, cost-effective mitigation of significant environmental impacts;

(b) that unmitigated impacts, including those that cannot be reasonably quantified or valued in monetary terms, do not pose any threat of serious injury or damage to:

(i) the environment;

(ii) the social and economic conditions of inhabitants of the affected area; or

(iii) the health, safety, or welfare of area inhabitants; or

(c) that, if a finding in subsection (3)(b) cannot be made, the unmitigated impact or threat of injury or damage to the environment, to the social and economic conditions of inhabitants of the affected area, or to the health, safety, or welfare of area inhabitants is warranted by the expected benefits that the facility will provide over its useful life.

(4) To be considered an alternative to a proposed facility defined in 75-20-104(8)(a) and (8)(b), the alternative must:

(a) meet the objective of the applicant's proposal;

(b) be available to the applicant; and

(c) be reasonable and specific to the applicant's proposed site.

(5) Consideration of alternatives for facilities defined in 75-20-104(8)(c) and (8)(d) may not be a basis for requiring considerations of alternative sites for facilities defined in 75-20-104(8)(a) and (8)(b).

(6) For facilities defined in 77-20-104(8), if the department cannot make the findings required in 75-20-301, it shall deny the certificate."

Section 16. Section 75-20-302, MCA, is amended to read:

"75-20-302. Conditions imposed. (1) If the ~~board~~ department determines that the location of all or a part of the proposed facility should be modified, it may condition its certificate upon the modification, provided that the persons residing in the area affected by the modification have been given reasonable notice of the modification.

~~(2) In making its findings under 75-20-301(2)(a) for a facility defined in 75-20-104(8)(a)(i), the board may condition a certificate upon actual load growth reaching a specified level or on availability of other planned energy resources.~~

(2) The department may require the applicant to post performance bonds to guarantee successful restoration and revegetation of the project area."

Section 17. Section 75-20-303, MCA, is amended to read:

"75-20-303. Opinion issued with decision -- contents. (1) In rendering a decision on an application for a certificate, the ~~board~~ department shall issue an opinion stating its reasons for the action taken.

(2) If the ~~board~~ department has found that any regional or local law or regulation that would be otherwise applicable is unreasonably restrictive, it shall state in its opinion the reasons that it is unreasonably restrictive.

(3) ~~Any~~ A certificate issued by the ~~board~~ department must include the following:

(a) an environmental evaluation statement related to the facility being certified. The statement must include but is not limited to analysis of the following information:

(i) the environmental impact of the proposed facility; and

(ii) any adverse environmental effects that cannot be avoided by issuance of the certificate;

(b) a plan for monitoring environmental effects of the proposed facility;

(c) a plan for monitoring the certified facility site between the time of certification and completion

of construction;

(d) a time limit as provided in subsection (4); and

(e) a statement signed by the applicant showing agreement to comply with the requirements of this chapter and the conditions of the certificate.

(4) (a) The ~~board~~ department shall issue as part of the certificate the following time limits:

(i) For a facility as defined in 75-20-104~~(8)(b)~~(8)(c) or ~~(8)(c)~~(8)(d) that is more than 30 miles in length, construction must be completed within 10 years.

(ii) For a facility as defined in 75-20-104~~(8)(b)~~(8)(c) that is 30 miles or less in length, construction must be completed within 5 years.

(iii) For a facility as defined in 75-20-104(8)(a), (8)(b), and (8)(e) through (8)(g), construction must begin within 6 years and continue with due diligence in accordance with preliminary construction plans established in the certificate.

(b) Unless extended or renewed, a certificate lapses and is void if the facility is not constructed or if construction of the facility is not commenced within the time limits provided in this section.

(c) The time limit may be extended for a reasonable period upon a showing by the applicant to the ~~board~~ department that a good faith effort is being undertaken to complete construction under subsections (4)(a)(i) and (4)(a)(ii) or to begin construction under subsection (4)(a)(iii). Under this subsection, a good faith effort includes the process of acquiring any necessary state or federal permit or certificate for the facility and the process of judicial review of a permit or certificate."

Section 18. Section 75-20-304, MCA, is amended to read:

"**75-20-304. Waiver of provisions of certification proceedings.** (1) The ~~board~~ department may waive compliance with any of the provisions of 75-20-216 ~~through 75-20-222, 75-20-501,~~ and this part if the applicant makes a clear and convincing showing to the ~~board~~ department at a public hearing that an immediate, urgent need for a facility exists and that the applicant did not have knowledge that the need for the facility existed sufficiently in advance to fully comply with the provisions of 75-20-216 ~~through 75-20-222, 75-20-501,~~ and this part.

(2) The ~~board~~ department may waive compliance with any of the provisions of this chapter upon receipt of notice by a person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other

civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The ~~board~~ department shall waive compliance with the requirements of 75-20-301~~(2)(c)~~(1)(c), ~~(3)(b)~~ (2)(b), and ~~(3)(c)~~ (2)(c) and the requirements of 75-20-211~~(1)(a)(iv)~~(1)(a)(iii) and ~~(1)(a)(v)~~(1)(a)(iv)~~,~~ and 75-20-216(3)~~, and 75-20-303(3)(a)(iv)~~ relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the ~~board~~ department at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently curtailed or ceased operations, causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution ~~such a~~ the waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not apply to consideration of alternatives or minimum adverse environmental impact for a facility defined in 75-20-104~~(8)(b)~~(8)(c), ~~(8)(c)~~ (8)(d), ~~(8)(d)~~ (8)(e), or ~~(8)(e)~~ (8)(f), for an associated facility defined in 75-20-104(3), or for any portion of or process in a facility defined in 75-20-104(8)(a) or (8)(b) to the extent that the process or portion of the facility is not subject to an air or water quality permit issued by the department ~~or board~~.

(6) The applicant shall pay all expenses required to process and conduct a hearing on a waiver request under subsection (3). However, any payments made under this subsection must be credited toward the fee paid under 75-20-215 to the extent that the data or evidence presented at the hearing or the decision of the ~~board~~ department under subsection (3) can be used in making a certification decision under this chapter.

(7) The ~~board~~ department may grant only one waiver under subsections (3) and (4) for each permanent loss of jobs as defined in subsection (3)(a)."

Section 19. Section 75-20-402, MCA, is amended to read:

"75-20-402. Monitoring. The ~~board and the~~ department shall monitor the operations of all certificated facilities for ensuring continuing compliance with this chapter and certificates issued under this chapter and for discovering and preventing noncompliance with this chapter and the certificates. The applicant shall pay all expenses related to the monitoring plan established in 75-20-303(3)(b) or (3)(c) to the extent federal funds available for the facility, as determined by the department, have not been provided for those purposes."

Section 20. Section 75-20-403, MCA, is amended to read:

"75-20-403. Revocation or suspension of certificate. Following notice and an opportunity for a hearing, a certificate may be revoked or suspended by the ~~board~~ department:

(1) for any material false statement in the application or in accompanying statements or studies required of the applicant if a true statement would have warranted the ~~board's~~ department's refusal to grant a certificate;

(2) for failure to maintain safety standards or to comply with the terms or conditions of the certificate; or

(3) for violation of any provision of this chapter, the rules issued ~~thereunder~~ under this chapter, or orders of the ~~board or~~ department."

Section 21. Section 75-20-406, MCA, is amended to read:

"75-20-406. Judicial review of board ~~and department~~ decisions. (1) ~~Any active party, as defined in 75-20-221,~~ A person aggrieved by the final decision of the board on an application for a certificate may obtain judicial review of that decision by the filing of a petition in a state district court of competent jurisdiction.

(2) The judicial review procedure is the same as that for contested cases under the Montana Administrative Procedure Act.

(3) When the ~~board or department conducts hearings pursuant to 75-20-216(3) and 75-20-218 and the~~ applicant is granted a permit or certification, with or without conditions, pursuant to the laws administered by the department and the board and this chapter, the decision may be appealed only in conjunction with the final decision of the board as provided in [section 2] and subsections (1) and (2) of

this section. If an air or water quality permit or certification is denied by the department or the board, the applicant may:

(a) appeal the denial under the appellate review procedures provided in the air and water quality laws administered by the department and the board; or

(b) reserve the right to appeal the denial by the department or the board until after the board has issued a final decision as provided in [section 2].

(4) ~~Nothing in this~~ This section may not be construed to prohibit the board from holding a hearing as provided in this section on all matters that are not the subject of a pending appeal by the applicant under subsection (3)(a)."

Section 22. Section 75-20-1202, MCA, is amended to read:

"**75-20-1202. Definitions.** As used in 75-20-201, ~~through~~ 75-20-203, and this part, the following definitions apply:

(1) "Facility", as defined in 75-20-104(8), is further defined to include any nuclear facility as defined in subsection (2)(a).

(2) (a) "Nuclear facility" means each plant, unit, or other facility designed for or capable of:

(i) generating 50 megawatts of electricity or more by means of nuclear fission;

(ii) converting, enriching, fabricating, or reprocessing uranium minerals or nuclear fuels; or

(iii) storing or disposing of radioactive wastes or materials from a nuclear facility.

(b) Nuclear facility does not include any small-scale facility used solely for educational, research, or medical purposes not connected with the commercial generation of energy."

Section 23. Section 75-20-1205, MCA, is amended to read:

"**75-20-1205. Emergency approval authority invalid for nuclear facilities.** Notwithstanding the provisions of 75-20-304(2) and (3), the board may not waive compliance with any of the provisions of ~~this part or~~ 75-20-201 ~~through~~ and 75-20-203 or this part relating to certification of a nuclear facility."

NEW SECTION. **Section 24. Repealer.** Sections 75-20-202, 75-20-205, 75-20-218, 75-20-220, 75-20-221, 75-20-222, 75-20-227, 75-20-501, 75-20-502, and 75-20-503, MCA, are repealed.

NEW SECTION. **Section 25. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 75, chapter 20, and the provisions of Title 75, chapter 20, apply to [sections 1 through 3].

NEW SECTION. **Section 26. Applicability.** A person who, prior to January 1, 1997, has filed a correct and complete air quality permit application with the department of environmental quality for a power plant capable of generating less than 150 megawatts is not subject to the provisions of Title 75, chapter 20.

NEW SECTION. **Section 27. Effective date.** [This act] is effective July 1, 1997.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0224, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act generally revising the Montana Major Facility Siting Act (MFSA).

ASSUMPTIONS:
1. Expedited review may tend to decrease slightly the total quantity of fees potentially collected under MFSA.
2. A change in regulatory thresholds may tend to slightly decrease the number of projects reviewed.
3. Written findings documenting expedited review conclusions still will be necessary.
4. The new "opt in" provisions may slightly increase the number of applications submitted and fees collected.
5. These funds are used largely for preapplication consultation and ongoing dialogues with the regulated community. Project fees are used to prepare environmental and permitting documentation, and to facilitate and coordinate interagency permits.

FISCAL IMPACT:
There would be no fiscal impact to the general fund.

Dave Lewis 1-30-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Mack Cole 1/31/97
MACK COLE, PRIMARY SPONSOR DATE

Fiscal Note for SB0224, as introduced

SB 224

SENATE NATURAL RESOURCES

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
SB0108	BECK, TOM 1/03	1/15	REVISE WATER ADJUDICATION LAWS	PASS AS AMENDED VOTE:		1/28
SB0146	BISHOP, AL 1/09	2/05	SETTING UNIFORM STATE AMBIENT SULFUR DIOXIDE STANDARDS	TABLED ON 02/11 VOTE:		
SB0175	SWYSGOOD, CHARLES 1/14	1/31	RATIFY STATE-BLM RESERVED WATER RIGHTS COMPACT	PASS AS AMENDED VOTE:		2/07
SB0223	COLE, MACK 1/25	2/03	CLARIFY AUTHORITY OF COAL BOARD TO ASSIST LOCAL GOVERNMENTS	PASS AS AMENDED VOTE:		2/11
SB0224	COLE, MACK 1/25	2/03	GENERALLY REVISE THE MONTANA MAJOR FACILITY SITING ACT	PASS AS AMENDED VOTE:		2/14
SB0253	LYNCH, J. D. 1/30	2/05	REVISING SOLID WASTE DEFINITION	TABLED ON 02/20 VOTE:		
SB0273	NELSON, LINDA 2/03	2/07	RESERVATION OF WATER FOR CERTIFICATE	DO PASS VOTE:		2/11
SB0310	GROSFIELD, LORENTS 2/08	2/12	LOANS FOR WATER USERS ASSOCIATIONS	PASS AS AMENDED VOTE:		2/14
SB0322	GROSFIELD, LORENTS 2/10	2/14	ESTABLISH ABANDONED MINE RECLAMATION AS PRIORITY FOR GRANTS	PASS AS AMENDED VOTE:		2/20
SB0323	HERTEL, JOHN 2/10	2/14	REVISE CONSERVATION EASEMENT LAW	TABLED ON 02/20 VOTE:		
SB0332	MILLER, KEN 2/11	2/14	REQUIRE WASTE TIRE DISPOSAL SITES TO GIVE FINANCE ASSURANCE OF WORK QUALITY	DO PASS VOTE:		2/20
SB0334	GROSFIELD, LORENTS 2/12	2/17	IMPLEMENT ARTICLE IX, SECTION 1 OF THE MT CONSTITUTION	DO PASS VOTE:		2/20

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **VICE CHAIRMAN WILLIAM S. CRISMORE**, on February 3, 1997, at 3:00 P.M. in Room 405.

ROLL CALL

Members Present:

Sen. William S. Crismore, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Mack Cole (R)
Sen. Thomas F. Keating (R)
Sen. Dale Mahlum (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Mike Taylor (R)
Sen. Fred R. Van Valkenburg (D)

Members Excused: Sen. Lorents Grosfield

Members Absent: None

Staff Present: Larry Mitchell, Legislative Services Division
Gayle Hayley, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 223, SB 224, Jan. 27, 1997.
Executive Action: None

HEARING ON SB 223

Sponsor: **SENATOR MACK COLE, SD 4, HYSHAM**

Proponents: **Gary Fjelstad, Rosebud County**
Terry Taylor, Taylor's Ace Hardware, Coalstrip, Mt.
Rusty Rokita, Hardin, Mt.
Rep. Lila Taylor, HD 5, Busby
Tom Daubert, Mt. Assoc. of Oil, Gas, and Coal
Don Judge, Mt. State AFL-CIO

Opponents: **None**

SENATOR VIVIAN BROOKE, asked **Mr. Anderson** about the designation change concerning annual to biennial, and refers to the Treasure State Endowment situation. He stated that the designation has nothing to do with the Coal Board's authority to award grants. The Coal Board, by statute, is required to meet once a quarter, and they can receive and respond to these applications at each of their meetings. The designation is not something that defines when the grants can be awarded. It only defines the areas under the statute where there is a designation of coal impact by qualities that the statute puts forth. The issue of the Board to award grants at any prescribed time has nothing to do with what we are changing here. They have been and continue to be able to issue grants every quarter of the biennium. There is no relevancy to Treasure State issue, only once every two years could the Legislature approve the grants recommended by the Dept. SB 88 clarifies that the Governor can approve those grants rather that the Legislature and that function can happen on a annual basis.

{Tape: 1; Side: B; Approx. Time Count: 4:10; Comments: .}

SEN. MIKE TAYLOR asked **Mr Anderson** about the total statutory appropriations to the Coal Board from the coal tax? What was the total dollar amount? **Mr. Anderson** said there was no statutory appropriations of the Coal Board any longer. It used to be a formula by percentage of revenue annually from the coal tax, but presently those funds are de-earmarked as a result of last years legislation. The Coal Board is a part of a group of funds out of the coal tax that has 8.36 % of the non-trust side of the revenue. **SEN. TAYLOR** asked how many dollars is that? **Mr. Anderson** stated that last year we took a million dollars for grants, and spent $967,000.00.

Closing by Sponsor:

SEN. COLE closed by thanking the people for their testimony and added a few additional comments. He said that as we go back in history, and take a look at the amount of funds that have came to the State of Montana from the severance taxes, there has been over $1,137,000,000 received. The money has been used in state General Funds, public schools, highways, conservation, etc. During the 18 year history of the severance tax, there has only been $107 million that has gone directly to coal impacted areas. Recently, only a half a million dollars is proposed to go back to the impacted areas. This is a small percentage that has actually gone back compared to the benefits that have come out of the coal country to all of the state.

{Tape: 1; Side: B; Approx. Time Count: 4:15; Comments: .}

HEARING ON SB 224

Sponsor: **SENATOR MACK COLE, SD 4, HYSHAM**

Proponents: **Jan Sensibaugh, Department of Environmental Quality**
Jim Mockler, Montana Coal Council
Gene Braun, Montana Power
Donald Quander, Working Group on Regulatory Reform
Tom Daubert, Mt. Association of Oil, Gas, and Coal Counties.
Lorna Frank, Montana Farm Bureau
Tom Ebzery, Pudget Power, Washington Power, Portland General Electric
Haley Beaudry, HD 35
Candace Torgerson, Billings Generation Inc.

Opponents: **Patrick Judge, Montana Environmental Inform. Center**
Deborah Smith, Montana Chapter of Sierra Club
Nick Golder, Colstrip Rancher
Arnold Silverman, University of Montana
Janet Ellis, Montana Audubon

VICE CHAIRMAN WILLIAM S. CRISMORE introduced the sponsor and opened the hearing.

Opening Statement by Sponsor:

SENATOR MACK COLE, SD 4, HYSHAM, stated that the Major Facility Siting Act was a bill that was adopted in the 1970's to look at large generating units. Since then, most generation units are operated by independent power producers, thus, SB 224 is an act to accommodate these changes. The Department of Environmental Quality convened a working group after the last legislative session, which was comprised of representatives of the utility industry, electric cooperatives, large industrial customers, state regulators, environmental groups, and state legislators. This working group has met monthly for about the last two years and has examined every provision of this siting act, developed means to streamline the application requirements, expedited review for all types and sizes of energy facilities, and eliminated decision standards that were no longer applicable. A report was written on Improving and Modernizing The Montana Major Facility Siting Act. **(EXHIBIT 1)** He commented that most of the issues were agreed upon, however, there was not a complete consensus on every item.

Proponents' Testimony:

Jan Sensibaugh, Administrator of the Permitting and Compliance Division of the Department of Environment Quality, described the specific statutory changes in SB 224 in her testimony. **(EXHIBIT 2)** Some of the changes mentioned included: 1) Time frame for comprehensive review of large projects is cut in half from 22 months to 12 months; 2) Expedited review process is cut to six months; 3) Alternative site analysis for generating units has been replaced by the requirement that alternatives considered by the Dept. must be specific to the applicant's proposed site. See **(Exhibit 2)** for further reference.

Jim Mockler, Executive Director, Montana Coal Council, stated that it was his twentieth year to stand before the legislature to testify for the facility siting act but is the first time that we have ever come together, ever sat down for two years, with pros and cons and other people to study the act. There has been no complete consensus arrived at, as many expected. He stressed what the act did and did not do. The act does take away the impediments of the consideration process. The act will not effect the environment. There is not one environmental change in this bill. He hoped the committee would vote favorably for this legislation.

Gene Braun, Montana Power, General Manager of the Electric Transmission Group, commented, that his testimony was limited to the linear facilities aspect of SB 224. **(EXHIBIT 3).** The changes that are proposed in the act would assure a level playing field for all participants, assure that the public would have a say, provides for decisions that would establish a coordinated permitting process, provides an expedited review process for facilities that is unlikely to result in significant environmental impacts. This expedited process would include upgrades reconstruction and relocation of electric transmission facilities. Montana Power has about 7000 miles of transmission lines, 20 percent of those lines are over 80 years of age. Certainly, his company is in favor of expediting the permit system. The changes would also provide firm time schedules, allow for certification authority to be vested in the DEQ, provide for use of performance bonds to ensure post construction reclamation. There are two minor changes that should be considered in the act: 1) Section 75-20-301 (3a) strike "all", suggest to read "reasonable litigation," rather than "all reasonable litigation." 2) Section 75-20- 302 (2) Strike "restoration" and put in "reclamation."

Donald Quander, Regulatory Reform Working Group, Billings, stated that his testimony is his own although he represents numerous industrial companies who are large electricity customers. **Mr. Quander** handed out copies of his word for word testimony, **(EXHIBIT 4),** explaining his views. In closing he stated that this reform bill is not a quick fix, but an opportunity to preserve what is valuable while adapting the Act to today's changed world and to what we have learned. It is an long term opportunity to make the Major Facility Siting Act work for the years ahead.

Tom Daubert, Montana Association of Oil, Gas, and Coal Counties, urged support for this bill.

Lorna Frank, Mt. Farm Bureau, supported bill because the Bureau believed that there has been some unrealistic regulatory climate in regard to the Facility Siting Act. There has been no recent changes in this act and we support changes to the Mt. Facility Siting Act which would provide a reasonable and more realistic

regulatory climate under which any needed and desirable facility could be completed. She urged the committee to support SB 224.

Tom Ebzery, Billings, Washington and Puget Power, Portland General Electric, stated he was a member of the consensus collaborative, which was quite a diverse group. He felt this represents a reasonable effort and supported the bill.

REP. HAYLEY BEAUDRY, HD 35, said he was going to be carrying this bill in the House and has been directly involved as a member of the committee and related projects concerning the Montana Facility Siting Act. If we reverted back to the old Facility Siting Act, plants would not be built in Montana and the state would be the recipient of exported power. He urged the committee's support for this bill.

Candace Torgerson, Billings Generation Inc., believed it is important to have a siting act which is flexible enough to get the job done, and able to respond to the changes and advances of technology. She urged the committee to support SB 224.

{Tape: 1; Side: B; Approx. Time Count: 4:40; Comments: .}

Opponents' Testimony:

Patrick Judge, Montana Environmental Information Center, (MEIC), strongly felt there has been a misrepresentation concerning SB 224 and the report that was handed out **(EXHIBIT 1)** did not represent the consensus of the collaborative process. He further stated that the streamlining portions of the bill were contingent on a satisfactory resolution. No agreement could be reached on the triggering aspects, therefore, the conditional review of the streamlining measures was not at all a consensus. **Mr. Judge** handed out his testimony against SB 224, **(EXHIBIT 5).** He summarized by saying the unacceptably high triggers in this bill render the act ineffectual and passage of this bill would leave the Major Facility Siting Act weakened on the books, and more importantly it would leave those books on the shelf. He urged the committee to oppose SB224.

Debby Smith, Montana Chapter of Sierra Club, stated her credentials concerning energy issues and electric utility legislation. In her opinion, this bill does not attempt to reach a compromise and there is a stark dividing line between the opponents and proponents. The lead off proponent of this bill, Jan Sensibaugh, DEQ, talked about the new world of utility restructure, the fast pace, market oriented approach to building power plants wherever the demand was by the customers, and the need for a public interest determination for generation had expired. That is certainly not a uniform view. Most customers would not agree either, except for large industrial generation customers. There are needs for consumer protections of generation that the facility siting act addresses that would be thrown away if this bill is passed as amended. She urged the committee to

eliminate the provisions that strike the public need finding from a major facility. It is important for DEQ to continue to determine what is in the public interest as far the location and need for major facilities. She then proceeded to go through the specific language of the bill, referring to Section 1, 16. She thought parts were harsh and radical such as the elimination of the need for an alternative siting study, and the phrase energy related project, which there is no definition for. She thanked the committee for considering her comments.

{Tape: 2; Side: A; Approx. Time Count: 5:00; Comments: .}

Nick Golder, Colstrip Rancher, Northern Plains Resource Council, (EXHIBIT 6), gave written testimony in opposition to SB224. His testimony focused on the trigger mechanism and believed that without an adequate method of triggering the Act, everything else is pointless. NPRC supported a concept of where actual environmental impacts trigger the Act rather than an arbitrary number of megawatts as currently exists. He urged the committee to adopt the trigger levels as listed in **(EXHIBIT 6)** as an amendment to **SEN. COLE'S** bill. Without these amendments, SB224 renders the Siting Act meaningless, and Mr. Golder urged the legislatures not to pass the bill.

Arnold Silverman, Professor of Geology and Energy Resources, University of Montana, stated he had worked on almost every energy bill since 1967, including the Major Facility Siting Act. He asked the committee to reject SB 224. Two points are important to consider. First, the expedited review section concerning significant adverse environmental impacts needs to be clear. Second, on Section 3, he suggested that the public participate from the beginning in an environment in which people can exchange ideas and information and provide the best possible review. Third, **Mr. Silverman** pointed out the language concerning the facility will produce <u>minimum</u> adverse effects, the changes suggested that the facilities will not produce <u>unacceptable</u> adverse effects. Minimum versus unacceptable is a major difference in both intent of the legislature and to the people who need to respond to this particular bill. Unacceptable to who is the question. Public need should be a part of any bill that is restructured. He concluded that SB 224 cuts the most important and precious protection that we have and he urged to reject it.

Janet Ellis, Montana Audubon, wanted to bring up one point concerning it was a consensus process and did break down at a key point. She was disturbed that a state agency that will be responsible for implementing this program and regulating this permit process is supporting a bill that is not a consensus bill.

<u>Questions From Committee Members and Responses</u>:

SENATOR LORENTS GROSFIELD asked about an alternative bill.
Ms. Ellis replied that she was unaware of one.

Mr. Patrick Judge wanted to bring to the committees's attention a bill introduced by **REP. ELLINGSON** that addresses the trigger section and is based on multiple environmental criteria. LC 1217 should be introduced tomorrow.

SENATOR FRED VAN VALKENBURG asked **Mr. Braun of Montana Power** what are the megawatt capacity of the Colstrip plants? **Mr. Braun** replied that Colstrip 1 & 2 are 330 MW each, and Colstrip 3 & 4 are 700 MW each. **SEN. VAN VALKENBURG** wanted input about the likelihood of independent power producers building new plants in the state in the future and what is the consequence of that to residential rate payers and small business rate payers if the Legislature gives the green light to all these independent power producers being able to come in and set up new electrical generating facilities below 250 MW with expedited review. **Mr. Braun** responded that the Colstrip projects will have to compete. The restructuring of the act is partly about the deregulation of the generation business and makes it competitive. He did not know how to estimate the number of new producers that would come to the state as a result of this legislation. There are a lot of factors involved.

SENATOR BEA MCCARTHY asked **SEN. COLE** about the fact that the result of the study was not unanimous. **SEN. COLE** responded that during the two year study certain items were agreed upon individually. When the triggers were not agreed on, those people withdrew their agreement on some of the things that had been agreed to at the beginning. It was a study, it was not unanimous, and there was not an agreement on everything. **SEN. MCCARTHY** asked if they brought the changes back to the group. **SEN. COLE** said the bill initially only had a two year life and the major change in it was moving from 50 to 150 MW. It was basically a stop-gap bill. Once the last session was over , they had put together this group and had been working on it since then. Some things were not agreed upon but the bill was put together with as much input as they could get.

SENATOR VIVIAN BROOKE, asked **Jan Sensibaugh** about some of the representation on the working group. She did not see people on this working group represented by DEQ other than Tom Ellerhoff, Mt. Dept. of Health and Environmental Sciences. Is that department now DEQ or Health and Human Services? **Ms. Sensibaugh** said that is DEQ. Both Tom Ellerhoff and Art Compton are employed by DEQ and were on that working group.

SEN. BROOKE asked **REP. BEAUDRY** if he came representing his district or as a representative of Billings Generation Inc.? He replied that he came representing his district in Butte.

<u>Closing by Sponsor</u>:

SEN. COLE emphasized that this bill was put together with as much input as possible, although the bill is not a total consensus. The major outcome he was hoping for was primarily to expedite the

permitting system and to remove unneeded decision standards. By doing this, the process of the application will be speeded up and will have preserved and enhanced opportunities for public input, and will continue to protect the environmental resources.
SEN. COLE submitted amendments to SB 224, sb022401.ate **(EXHIBIT 7)**, and closed.

VICE CHAIRMAN CRISMORE closed the hearing on SB 224.
{Tape: 2; Side: A; Approx. Time Count: 5:35; Comments: .}

MONTANA SENATE
1997 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL DATE 2/3/97

NAME	PRESENT	ABSENT	EXCUSED
SEN. VIVIAN BROOKE	X		
SEN. MACK COLE	X		
SEN. TOM KEATING	X		
SEN. DALE MAHLUM	X		
SEN. BEA MC CARTHY	X		
SEN. KEN MILLER	X		
SEN. MIKE TAYLOR	X		
SEN. FRED VAN VALKENBURG	X		
SEN. BILL CRISMORE, VICE CHAIRMAN	X		
SEN. LORENTS GROSFIELD, CHAIRMAN			X

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CS-09

Cole Spoons

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 2/3/97
BILL NO SB 224

Report on Improving and Modernizing The Montana Major Facility Siting Act

I. Summary and Recommendations

Pursuant to legislation passed by the 54th session of the Montana Legislature, SB 366, the Department of Environmental Quality (Department) convened the Major Facility Siting Act Regulatory Reform Working Group (Workin~ Group) to attempt to develop consensus recommendations for improving and moden Over a two year period, the Working Grou improvements to MFSA process and decisi for generation facilities, i.e. which generati Working Group's ground rules required al failure to reach agreement on a trigger res none was forth coming from the Working

Exhibit # 1 SB 224
30+ Pages
The full exhibit is available from:
MT Historical Society Archives
225 North Roberts
P.O. Box 201201
Helena, MT 59620-1201
Phone # (406)444-4774

SB 366 requires the Department t legislative session; they are include here i

II. Introduction

The Department, then the Department of Natural Resources and Conservation (DNRC), originally convened the Working Group on December 1, 1994 to build on the work of an earlier collaborative which successfully developed consensus recommendations for identifying and removing barriers to the implementation of integrated least cost resource planning and acquisition by Montana utilities. Prior to completing its work in December 1992, the earlier collaborative had begun considering changes to MFSA. The US Department of Energy made funding available in October 1994 to continue this work, and with this funding, the DNRC issued invitations to interested parties to attend a December 1, 1994 meeting to begin a consensus review of any and all aspects of MFSA in light of the changes that have occurred since its passage in 1973. The review by the Working Group continued in meetings in January and March 1995.

Prior to Working Group's fourth meeting on May 11, 1995, the Montana Legislature passed SB 366 which in Section 10 required the Department to:

> ...prepare and present a report to the 55th legislature with recommendations for improving and modernizing the Montana Major Facility Siting Act. The Department shall convene a state dialogue to develop the report and recommendations. The participants in the dialogue shall represent a broad spectrum of interests affected by the siting, construction, and operation of major facilities, including utilities, energy development groups, interested industries, ratepayers, regulators, landowners, and citizen groups. The dialogue is to be designed to seek the involvement of a broad range of affected interest groups in the discussions of reforming the Montana Major Facility Siting Act, with the express intent of eliciting a consensus. The consensus developing process must

SENATE NATURAL RESOURCES
EXHIBIT NO. 9
DATE 2/3/97
BILL NO. 224

TESTIMONY ON SENATE BILL 224

Jan P. Sensibaugh
Permitting and Compliance Division
Department of Environmental Quality

Senate Bill 224 makes amendments to the Montana Major Facility Siting Act. The Department of Environmental Quality was a member of the collaborative working group that Senator Cole described, and my testimony describes the specific changes that Senate Bill 224 would bring to the state's facility siting process.

Senator Cole was correct in characterizing these changes as "sweeping". In order to make siting review more responsive to the needs of a fast-paced, competitive industry, the time frame for comprehensive review of large projects is cut virtually in half--from 22 months to twelve months. In addition, an expedited review process is established for smaller projects that do not pose the risk of significant environmental impacts. This expedited review would process an application with an environmental assessment in six months.

The working group felt that in the new competitive arena, given restructuring of public service utilities, the marketplace will determine what new generation units come on line. These proposals will have to measure up to the rigors of competitive review by the utilities soliciting power proposals. Therefore, the state's determination of need for new plants has been eliminated. Some group members felt that the Siting Act needed to reduce the second-guessing of an energy provider's judgement on suitable locations for a proposed plant. Therefore, under this bill, the alternative site analysis for generating units has been replaced by the requirement that alternatives considered by the department must be specific to the applicant's proposed site. The minimum impact standard for generation that required a proposal to be the very best plant at the very best site, has been replaced by the requirement that the facility incorporate all reasonable, cost effective mitigation. Any unmitigated impacts must not pose any threat of serious injury or damage to public health or the environment, or such damage must be warranted by the expected benefits of the facility. Finally, the public interest determination for generation has been repealed.

However, because Montana landowners host transmission lines and pipelines on lands they own and operate, and because companies have the power to condemn rights-of-way on private lands through the exercise of eminent domain, all existing decision standards remain in place for linear facilities.

Because siting act review includes a well developed public participation program, and staff coordination and facilitation of required permits, the working

group desired an "opt-in" clause, whereby a project sponsor can request siting act review for a proposal that would not otherwise be covered.

The final issue which the working group could not agree on was the trigger mechanism that identifies what size facility requires Siting Act review. As Senator Cole indicates, there was a degree of consensus on the need for impact based triggers based on a proposed plant's location or actual emissions. This is a better predictor of a plant's environmental effects than mere consideration of its size. Under Senate Bill 224, generating units that emit 300 tons per year of small particulate require siting act review, as do plants that do not employ the best available control technology for sulphur dioxide and nitrous oxide emissions. Also covered are plants that would directly effect very sensitive lands such as national parks or wilderness areas.

What I've described include the substantive changes to the Major Facility Siting Act. Thank you for the opportunity to comment.

SENATE NATURAL RESOURCES
EXHIBIT NO. 3
DATE 2/3/97
BILL NO. 224

Good Afternoon

My name in Gene Braun. I am the General Manager of Electric Transmission for The Montana Power Company.

My comments are directed to S.B. 224 - which would revise The Montana Major Facility Siting Act and these comments are limited to the proposed changes for linear facilities.

The proposed changes to the linear facilities portion of the Montana Major Facilities Act:

- Assures a level playing field.
- Assures that the public has a say when significant public resources would be involved.
- Provides for decisions that would establish a coordinated permitting process for linear facilities in a timely manner.
- Provides expedited review process for a facility that is unlikely to result in significant adverse environmental impacts based upon reasonable criteria. This expedited process would also include upgrades, reconstruction and relocation.
- Provides a firm time schedule.
- Allows for certification authority to be vested in DEQ with appeal to the Board of Environmental Review.
- Provides for use of performance bonds to ensure post construction and reclamation.

However there are changes which need to be considered.

The first suggested change is located in 16 Section 75-20-301 (3) (a). The word "all" is included in the proposed legislation. I would suggest it be eliminated.

The other change is located in 17 Sec 75-20-302 (2).

I would suggest the word "restoration" be replaced with "reclamation".

We believe Senate Bill 224 adequately addresses linear facilities if these two changes are made.

Gene Braun
February 3, 1997

EAB105

SENATE NATURAL RESOURCES
EXHIBIT NO. 4
DATE 2/1/07
BILL NO. 224

TESTIMONY OF DONALD W. QUANDER ON SENATE BILL 224

Mr. Chairman, and members of the Committee, my name is Donald Quander. I am a lawyer and my home is in Billings. I participated in the collaborative working group on behalf of many of Montana's industrial companies who are large electricity customers. I want to thank Senator Cole and this Committee for inviting me to comment on this reform legislation.

It is important that Montana reform and modernize the Major Facility Siting Act. Much has changed since the Act was originally proposed and adopted. There is an active regional and even national market for electric power. Most environmental laws and requirements that new facilities must comply with today were not even on the books when the Act was passed in the early 1970's. In today's environment, the Act is duplicative; its procedures take too long and cost too much; its results are too uncertain. Most important, instead of providing effective review of major projects, it is discouraging the construction of smaller, modern projects which have few or even positive environmental impacts. I do not believe this result was intended by those who adopted the Act, nor is it the right result now. We can preserve the important values of the Act if we reform it to reflect today's changed world.

The Act should be revised to eliminate as much as possible present barriers to providing energy services in an increasingly competitive market. This should include limiting its application to projects that really are "major" and establishing a more coordinated and efficient permitting process for those facilities the Act covers. It is important to remember that all projects will still be required to obtain current air and water quality permits, as well as all other appropriate environmental licenses or approvals. For example, any proposed facility with the potential to emit 25 tons or more of a pollutant will still be required to get an air permit, and undergo MEPA review, whether or not it triggers the Major Facility Siting Act.

Opportunities for public involvement in siting decisions are preserved, as they should be, in this reform. Public participation is and will remain an important part of the review of major facilities.

The requirement for a finding of "public need" is retained for linear facilities, such as transmission lines and pipelines. This is appropriate because, unlike generation plants, linear facilities cross the property of other Montana landowners and because right-of-way can be condemned through eminent domain. By contrast, it is neither justified nor practical to require that "public need" be proved for electric power in a competitive market. In a free market economy, we do not require a farmer to prove the public need for his crops before he grows them, a shop owner to prove the public need for the products he sells, or a silicon chip manufacturer to prove a public need for his chips. It would be foolish and impractical to ask a company to prove the public need for electricity in a regional market where tens of thousands of megawatts are demanded and generated annually. That requirement is dropped for generation facilities.

It is certainly appropriate to increase to 250 megawatts the trigger for application of the Act. A lower trigger catches too many projects whose environmental impacts may be small or even positive, such as was the case with the Billings cogeneration project. This has discouraged development of environmentally sound projects in Montana. By contrast, the inclusion of new triggers where especially sensitive areas would be affected or if a large permanent workforce would result is not unreasonable. Air emission triggers present a more difficult problem. As the Department of Environmental Quality and many permit holders can testify, air permitting for any facility is a technical and unique exercise. There is uncertainty inherent in using air emission triggers. I understand the attraction of air emission triggers, but urge caution. Certainly, a string of different air emission triggers which do not match any current regulatory requirements should be avoided.

I consider the "opt-in" provision of the bill to be significant. If the revised Act produces the more coordinated and efficient process which is intended, facilities not required to proceed under the Act may willingly petition to do so. This would represent a real success for the Department, for applicants, and for the public process.

During the collaborative process of the past two years, all participants learned a lot about what works and what doesn't work in the current law. This reform bill is not a "quick fix." It is an opportunity to preserve what is valuable while adapting the Act to today's changed world and to what we have learned. It is an opportunity to make the Major Facility Siting Act work for Montana for the years ahead.

SENATE NATURAL RESOURCES
EXHIBIT NO. 5
DATE 2/3/97
BILL NO. SB 224

MEIC

MONTANA ENVIRONMENTAL INFORMATION CENTER

February 3, 1997

Mr. Chairman and members of the Senate Natural Resource Committee, my name is Patrick Judge and I am speaking on behalf of the Montana Environmental Information Center. MEIC rises in opposition to Senate Bill 224. I want to begin by emphasizing this bill does not represent a consensus of any kind. My organization participated in the unsuccessful interim study group on the Major Facility Siting Act. The purpose of the group, as established by the 1995 legislature, was to develop "recommendations for improving and modernizing the MFSA." Towards this end, the environmental delegation was willing to consider a number of proposals to create a faster and easier permitting process contingent upon improvement in the "triggering" mechanism found in the act's definition of "facility". Development interests specifically articulated that they were more interested in a "streamlined" review process than the size of facilities to come under that review. That tentative tradeoff never materialized. Instead, industry called for loosened triggers in addition to fast-track permitting. This bill has both and more. Be very clear that this bill represents nothing less than a massive rewrite of the act with the most sweeping changes in the acts 24 years on the books. I would recommend caution before moving ahead with this bill.

Let's begin with the "streamlining" changes. Section 1 creates and requires an expedited review path not to exceed 6 months in duration for changes to existing plants and for plants "unlikely to result in significant adverse environmental impact." The criteria for determining this significance are contained in Section 2. Section 12, sub 4, cuts the permitting timeline roughly in half. MEIC is not comfortable with these changes, as they could impair the department's ability to adequately review proposed facilities.

Still more disturbing are Sections 9 and 15. These sections remove the applicant's explanation and the department's determination of need. No longer must the department determine and minimize the adverse environmental impact for generation facilities. The decision to certify ANY facility would no longer be based on the 61 factors contained in 75-20-503 including energy needs, land use impacts, water resources impacts, air quality impacts, solid waste impacts, radiation impacts, and noise impacts. The language on page 18, lines 23-24, states that unmitigated environmental, social, economic, health, safety, and welfare impacts

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will be tolerated if balanced by "the expected benefits" of the facility. The question arises, who determines the acceptable balance? Will it be the citizens and workers whose health, safety, and welfare are traded? Corporate prosperity bankrolled by a compromised environment and sacrifices to our social-economic well-being is not only a failure of conscience, but a tribute to uneconomic cost-shifting. Financing private enterprise on the backs of the general populace is poor public policy ~~and~~ based on artificial economics.

But perhaps the most important change is the definition of facility. This bill proposes changing the historic 50 MW trigger to 250 MW, a five-fold increase. Are we really ready to allow such a dramatic increase? The 50 MW trigger was by no means a ban on plants of that size, but only mandated governmental oversight. With the changes I mentioned earlier, the review process would pose even less of a barrier. Projects greater than 250 MW will be few and far between. Why work so hard to make adjustments to an act and then ensure that it will rarely, if ever, be used? MEIC does not understand the reasoning behind such high triggering levels. To claim that lower triggers stifle development is to ignore the effect of the temporary increase from 50 MW to 150 MW passed last session. Did we witness the ensuing development predicted by this line of reasoning? No. I am not aware of <u>any</u> new plants that escaped review because of this change.

MEIC applauds the concept of environmental impact based triggers, and in fact introduced the concept to the study group. Triggers, however, must be meaningful. Those found in Section 5 are not. This section says that unless a plant emits 300 tons of soot at 10 microns or less each year, we won't even acknowledge its existence as a facility, unless it achieves one of the other similarly high triggers. The SO2 trigger only depends on a removal figure, effectively allowing any amount of this harmful gas into the air without review under this act. The residents of Billings have already made it clear to the legislature their concern about this gas. Furthermore, this bill contains no triggers for nitrous oxides or carbon dioxide. Finally, the employment trigger of 500 permanent workers is an exceedingly unlikely scenario. An alternate bill will come before this committee that offers effective environmental impact based triggers for PM10, SO2, CO2, NOx, and other variables. I understand that NPRC shares our concern about the triggers, and has amendments today along those lines.

The bill also changes the trigger for transmission lines, allowing for 161 kV lines to bypass review given right-of-way agreements with 75% of the landowners. This is an increase from the former exemption, which applied to 115 kV and below.

Electric industry restructuring could spark a great deal of development of 161 kV lines. These should be reviewed.

As a final point, I would like to stress the connection between siting act attacks and restructuring of the electric utility industry. Both are manifestations of the desire among large industrial customers and large energy producing corportations to move away from protections that guard the public from the impacts of energy development.

In summary, the unacceptably high triggers in this bill render the act utterly ineffectual, and are little more than a veiled attempt to gut the act. Passage of this bill would leave a weakened Major Facility Siting Act on the books, but perhaps more importantly it would leave those books on the shelf. I urge you to oppose SB224.

SENATE NATURAL RESOURCES
EXHIBIT NO. 6
DATE 2/3/97
BILL NO. SB 224

Northern Plains Resource Council
P.O. Box 941 Helena, MT 59624
(406) 442-4142 ph • (406) 449-8193 fx • nprcleg@desktop.org

SB224
Testimony of
Northern Plains Resource Council

Mr. Chairman, members of the committee, my name is Nick Golder. I am testifying today in opposition to SB224.

Before I begin discussing the specifics of the bill, I'd like to present a little history. In 1995, the legislature asked us and all the other interests in this room today to participate in the Major Facility Siting Act Reform Working Group. Our charge was to develop consensus revisions to the Act and present them to this legislature. Unfortunately after two years of work, the group was unable to reach consensus and fell apart a couple of months ago.

During the time the group existed there were a number of things discussed, many of which you see in the bill before you today. Items such as the fast track permitting process, the elimination of the "need" provision and the decision standard were all items NPRC agreed to contingent on the group developing a mechanism to trip the act which we believed would protect the public and the environment. The trigger presented in this bill does neither.

I must also say in reference to the Working Group that I am disappointed in Senator Cole. Over the complaints of many members of the Working Group, Senator Cole insisted on drafting a bill containing what he believed to be the areas of agreement amongst its members. We continually told the Senator that we felt this was a bad idea as the items on which we tentatively reached consensus were contingent upon the trigger mechanism, but he continued on with his bill anyone. Now, we have before SB224 containing many of these items. I sincerely believe the Senator Cole violated the spirit if not the written rules of the Working Group.

Now to the bill itself. I am going to focus my testimony on the trigger mechanism. Without an adequate method of triggering the Act, everything else is pointless.

Proposed Environmental Impact Based Triggers and Size of Generating Facility Allowed by Each Trigger Without MFSA Review

	Proposed Trigger	MW of gas combustion turbine with equal impact	MW of Colstrip 1 and 2 technology with equal impact	MW of Colstrip 3 and 4 technology with equal impact	MW of pulverized coal with equal impact
Sulfur Dioxide	1000 tons/year	30,500	100	297	164
PM10	75 tons/year	no figures available but 150 MW cogeneration plant generates roughly 88 tons/year			
Carbon Dioxide	2,000,000 tons/year	505	247	247	270
NOx	2000 tons/year	382	144	132	141
Water Consumed	300 million gallons	1,142	61	61	96
Solid Waste Generated	150,000 tons/year	unlimited	381	unavailable	564
Water Pollution	10% increase in TDS in ground or surface water	no figures availble			
Employment/ Population	500 permanent jobs or 6% population increase within 60 mile radius	unavailable	667	unavailable	unavailable

SENATE NATURAL RESOURCES
EXHIBIT NO. 7
DATE 2/3/97
BILL NO. SB224

Amendments to Senate Bill No. 224
1st Reading Copy

Requested by Senator Cole
For the Committee on Natural Resources

Prepared by Todd Everts
January 31, 1997

1. Title, line 9.
Strike: "75-20-502,"

[EXPLANATION: technical amendment-this section of law was repealed last session.]

2. Page 2, line 20.
Following: "certificate"
Insert: ", the renewal of a certificate,"

[EXPLANATION: provides for Board of Environmental Quality review of department decisions regarding renewals of certificates of environmental compatibility.]

3. Page 2, line 21.
Following: "may"
Insert: "within 30 days"
Following: "board"
Insert: "under the contested case procedures of Title 2, chapter 4, part 6"

[EXPLANATION: clarifies that an appeal of a department decision to the board will follow the contested case procedures under the Montana Administrative Procedures Act which provides notification and an opportunity for hearing, etc.]

4. Page 4, line 30.
Strike: "that" through "emissions"
Insert: "that is not employing best available control technology pursuant to 42 U.S.C. 7479"

[EXPLANATION: this amendment strikes sulfur emission limitation trigger language "that is a solid fuel burning unit removing less than 90% of the sulfur dioxide emissions" and replaces it with a emission limitation trigger based on the maximum degree of reduction of sulfur emissions and other constituents using the best available control technology as defined under the Clean Air Act.]

5. Page 5, line 1.
Strike: "located in or"

[EXPLANATION: clarifies that only a facility that directly affects (as opposed to located in) a sensitive area or species listed in this bill triggers the siting act process.]

[EXPLANATION: same as amendment 10.]

13. Page 14, line 25.
Following: "(1)(c)"
Insert: "or (3)"

[EXPLANATION: modifies section to conform to amendments in 75-30-301 that establishes different decision criteria for different types of facilities.]

14. Page 14, line 29 through page 15, line 2.
Following: "(4)" on line 29
Strike: "Within"
Following: "~~months~~" on line 29
Insert: "Except as provided in [section 1], within"
Following: "facility" on line 29
Strike: remainder of line 29 through "length" on page 15, line 2

[EXPLANATION: provides that linear facilities under 30 miles in length are subject to comprehensive review if those facilities have significant environmental impacts.]

15. Page 15, line 21
Following: "75-20-104(8)(a)(i)"
Insert: "or (8)(b)"

[EXPLANATION: allows for a certificate holder for a facility defined in 75-20-104(8)(b) (the new facility definitions in this bill) to apply for a renewal of a certificate prior to the certificate lapsing.]

16. Page 16, line 9.
Following: "**study**"
Insert: "**-- renewal hearing -- decision**"

[EXPLANATION: technical amendment--includes renewal hearing and department decision in section heading.]

17. Page 16, line 17.
Following: "~~75-20-227 and~~"
Strike: "subsection"
Insert: "subsections"
Following: "(3)"
Insert: ", (5), and (6)"
Following: "~~section~~"
Insert: "of this section"

[EXPLANATION: this amendment reflects the repeal of 75-20-227 and establishes department decision-making processes in subsections (5) and (6).]

18. Page 17, line 1.
Following: "reports."

Insert: "reclamation"

[EXPLANATION: this amendment says that the department may require the applicant to post performance bonds to guarantee successful "reclamation" instead of "restoration". Net effect: "restoration" is to bring back to or put back into a former or original state...."reclamation" is an act or process reforming or rehabilitating.]

23. Page 20, line 8.
Following: "(8)(c)"
Insert: "or (8)(d)"

[EXPLANATION: technical amendment - internal section consistency]

24. Page 22, line 25.
Following: "is the"
Strike: "same as that"
Insert: "procedure"

[EXPLANATION: clarifies that judicial review of board decisions under the Major Facility Siting Act is the contested case procedure for judicial review under the Montana Administrative Procedures Act.]

25. Page 23, line 29.
Strike: "75-20-502,"

[EXPLANATION: technical amendment-this section of law was repealed last session.]

SENATE NATURAL RESOURCES
EXHIBIT NO.
DATE 2/3/97
BILL NO.

DATE 2/3/97
SENATE COMMITTEE ON Nat Res
BILLS BEING HEARD TODAY: SB 223
SB 224

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Newell Anderson	Dept of Commerce MT Coal Board	SB223	X	
Mundo A. Campbell	" " "	"	X	
Rusty Rokita		SB223	X	
Donald Quander	Participant in Regulatory Reform Working Group	SB224	X	
Pat Judge	MEIC	"		X
Gene Braun	Montana Power	SB224	X	
Gary Wuerch	MT. Electric Coop. Assn	SB224	X	
Jan Sensenbaugh	DEQ	SB224	X	
Janet Ellis	MT Audubon	SB224		X
Conrad Fiedelman	Self	SB224		X
Mick Golden	NPRC	SB224		X
Terry A Taylor	Taylor's Ace Hdw	SB223	X	
Duane Martens	Rosebud County	SB-223	X	
Dan Fyhrie	" "	SB 223	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

SENATE NATURAL RESOURCES
EXHIBIT NO. _____
DATE 2/3/97
BILL NO. _____

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: SB 223
SB 224

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
CANDACE TORGERSON	BILLINGS CHAMBER INC	224	X	
Jim Mockler	MT Coal Council	223 224	←	
Tom Daubert	MT Assn of Oil, Gas + Coal Cos.	223 + 224	X	
Don Judge	MT STATE AFL-CIO	SB 223	X	
Deborah Smith	MT Chptr Sierra Club	SB224		X
Lola Taylor	Ley HDS	SB223	X	
LORNA FRANK-KARN	MT. FARM BUREAU	224	X	
Tom Ebzery	Puget Power, Wash Water Power, Portland Gen Electric	224	X	
LARRY BROWN	N. MT. Oil & Gas Assoc	223 224	X	
DENNIS IVERSON	WETA	224	X	
HALEY BEAUDRY	HD 35	224	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

REP. KARL OHS said even though HB 288 was directed at a very specific incident, it had ramifications regarding the industry's trying to clean up what others had not done correctly. He hoped the bill would sail through the Committee.

{Tape: 1; Side: B; Approx. Time Count: 4:00 p.m.}

EXECUTIVE ACTION ON HB 71

Motion/Vote: **SEN. BEA MCCARTHY MOVED HB 71 BE CONCURRED IN. Motion CARRIED UNANIMOUSLY. SEN. BEA MCCARTHY** will carry HB 71.

EXECUTIVE ACTION ON SB 224

Motion: **SEN. MACK COLE MOVED DO PASS ON AMENDMENTS sb022401.ate (EXHIBIT 3).**

Amendments: **Art Compton, DEQ,** explained Amendments sb022401.ate **(EXHIBIT 3A).**

Discussion: **SEN. FRED VAN VALKENBURG** asked if the amendments were agreed to by the collaborators to the consensus process. **Mr. Compton** said they weren't; SB 224 was not a piece of consensus legislation, and the amendments didn't reflect consensus either. The working group did not achieve consensus at the end of its two-year effort, that shaped the bill. He said there was not consensus at the end-game because a number of the collaborators' support for a number of provisions in the bill was intentioned upon identifying an acceptable trigger, and finding the trigger was the point upon which the collaborative broke down.
SEN. MACK COLE said some of the amendments were his, but most of them were the Department's. We put them together and agreed on them; there was no mention of the collaborative.

SEN. VAN VALKENBURG commented some of the collaborators agreed on Amendments 5 & 7, which had the effect of saying if the air quality issues were violated in such a way that they affected Class I airshed, Class I river, etc., as opposed to being "located in." He wanted to know what "some of the collaborators" meant. **Art Compton** said there were a number of the collaborators who didn't agree with some of the amendments. Some of them were driven purely by opponents' testimony; however, he believed "be located in or directly affecting" was not a substantive one. He remembered the argument being if the facility was located in a class I airshed, if it didn't affect the airshed, it should not be covered; whereas, it should be covered if it directly affected that resource. The dialogue didn't include the collaborators but got around to "directly affecting" as a more appropriate and focused trigger to use.

SEN. VAN VALKENBURG commented just because something was located within one of the categories didn't mean it necessarily affected the area. **Art Compton** agreed.

Vote: Motion DO PASS ON AMENDMENTS sb022401.ate CARRIED UNANIMOUSLY.

Discussion: **SEN. MIKE TAYLOR** asked for explanation of triggers. **Art Compton** said they were the most difficult issues to address; however, all collaborators agreed emissions-based triggers were a more accurate reflection of a proposed facility's actual effects than merely its size. Two things were brought by the Department to the table regarding the size trigger: (1) Environmental caucus in the collaborative advanced emissions-based triggers around the 50 - 80-megawatts range; (2) Industry collaborators felt 250-megawatts were needed to support the consensus bill. The Departments embraced combining both elements and adopting emission-based triggers at the 250-megawatt level, They hoped the adoption of emissions-based triggers advanced by the environmental caucus and others, and the 250-megawatt trigger would be at the heart of everyone's main concern. **Mr. Compton** said they looked at actual numbers or particulates for SO^2 at 50-, 75-, 150- and 250-megawatts. There was no magic about the 250 megawatts other than an industry technology which was an off-the-shelf combustion turbine which was about the 240-megawatt level, modularly placed and at a very low impact. He felt the Department was comfortable with the 250-megawatt level because it would exclude from review a relatively environmentally benign facility the industry felt was one of the more likely ones to be developed over the next decade or two.
SEN. TAYLOR asked if the Department supported SB 224 and if the emission controls on top of the triggers were sufficient to monitor the activity. **Art Compton** affirmed both questions.

SEN. VIVIAN BROOKE asked if the 250 was inserted because of off-the-shelf technology (generator that worked from natural gas). **Mr. Compton** said it was one of the reasons; however, the other half of the decision dealt with the concept of advancing the emission-based triggers which were important to the environmental caucus but supported by all members of the collaborators, and adopting industry's perspective.

SEN. BROOKE said there were many other types of generators under 250 which weren't as clean as the state-of-the-art one being discussed. **Art Compton** agreed. **SEN. BROOKE** wondered what levels of mega-wattage they were. **Mr. Compton** said two generation units had been constructed since the Colstrip era, i.e. a 37-megawatt waste coal burner which emits about 1,200 tons of SO^2 per year; however, he could not say whether the 1,200 tons was a significant or insignificant output of SO^2. It did, though, support the premise small, pulverized coal units emitted substantially greater amounts of SO^2 than natural gas.

SEN. BROOKE wondered about the time frames incorporated into the amendments, and how realistic they were. **Mr. Compton** said the six-month review was do-able for a project which had no risk of significant effects. Testimony from industry collaborators indicated they expected new projects built in this new

restructured and competitive utility industry to be small competitively acquired facilities as opposed to the large thermal-baseload generation of the past. Most of the projects would have only modest effects. **Mr. Compton** said the one-year comprehensive review would probably be accomplished through an EIS.

{Tape: 2; Side: A; Approx. Time Count: 4:45 p.m.}

CHAIRMAN LORENTS GROSFIELD asked if one of the triggers was the amount of workers dealt with, i.e. in the 37-megawatt plant, how many workers were there. **Art Compton** said it would be substantially less than 500. **CHAIRMAN GROSFIELD** said it referred to "permanent work force" and wondered what the permanent work force was at Colstrip III. **Mr. Compton** said he thought it had been about 400, but they were scaling it back to about 225.

CHAIRMAN GROSFIELD asked **Ken Williams, Montana Power,** the same question and was told at its height, Colstrip I-IV had about 600 employees; however, it was currently about 400.

CHAIRMAN GROSFIELD asked why "500" was chosen and **Art Compton** said he didn't remember; however, it could have been the House bill included the same trigger with a lower number of employees and additional trigger of 6% of the population within a 50-mile radius, which was probably more realistic.

SEN. TOM KEATING said BGI in Billings was a 57-megawatt facility with 35 people as their work force and **Mr. Compton** affirmed.

SEN. MIKE TAYLOR asked if SB 224 let any facility off the hook from following past regulations or standards, and was told if his facility was a 75-megawatt plant it would not be covered by virtue of the 250-megawatt trigger. It was unlikely the 75-megawatt would trigger any other triggers.

SEN. VIVIAN BROOKE referred to SB 366 from the 1995 session and wondered how the working group was brought to the table, and expressed concern there were no other legislators present for a broader understanding of the issues. **Art Compton** said the ground rules of the collaborative required after a date certain (about half-way through the collaborative process) any members who wanted to join the group had to have the unanimous consent of all the collaborators.

SEN. BROOKE wondered if the collaborative brought SB 366 to the 1995 session and **Mr. Compton** said it was not; this collaborative actually convened in November, 1994, and was a continuation of working groups which brought a siting act bill to the 1993 legislature which dealt with the easy issues.

SEN. BEA MCCARTHY asked which currently existing facilities became exempt because of the SB 224. **Art Compton** said there were none.

CHAIRMAN GROSFIELD asked if SB 224 had been in place in the early 1970's, which would have been required to go through the act. **Art Compton** said only two had been built since then: (1) Rosebud Energy Plant at Colstrip would not be covered by SB 224 because it was below 50-megawatts; (2) Yellowstone Energy Limited Partnership in Billings was about 57-60-megawatts and was not covered by SB 366. **CHAIRMAN GROSFIELD** asked if Colstrip would have been covered by SB 224 and was told it would have been.

{Tape: 2; Side: A; Approx. Time Count: 4:54 p.m.

SEN. MACK COLE asked what a plant who didn't hit these triggers would be covered under. **Art Compton** said a proposal was not subject to siting act review; a generation unit still had to maintain air and water quality authorizations which would be generally considered by the Department in the framework of the MEPA process.

CHAIRMAN GROSFIELD and other Committee members agreed to hold off final action on SB 224 until Wednesday [February 12]. **CHAIRMAN GROSFIELD** reminded the members if there were any more amendments, they should be sure to get them in.

SEN. VAN VALKENBURG commented the Committee had previously heard a bill sponsored by **REP. ROYAL JOHNSON** which had to do with the repeal of the Hannah Amendment. It was explained the Department didn't want to implement it any sooner than October 1; however, he wondered why SB 224, which had far greater implications, was to be effective July 1. **SEN. VAN VALKENBURG** wondered why the hurry to implement this one by July 1, as opposed to delaying the other one to October 1. **Mark Simonich** said SB 224 was a Department bill while **REP. JOHNSON's** bill was not; the Department simply responded to his desire for the effective date -- it had no preference one way or the other. **Mr. Simonich** said there was some discussion concerning the impact of moving the date forward and there was recognition by the Department that under the state implementation plans the plants in the Billings area were under some deadlines to get some technology into place which would have to be achieved by next March.

SENATE STANDING COMMITTEE REPORT

February 11, 1997

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill 71 (third reading copy -- blue), respectfully report that House Bill 71 be concurred in.

Signed: _____
Senator Lorents Grosfield, Chair

Amd. Coord.
Sec. of Senate

Senator Carrying Bill

321454SC.SRF

MONTANA SENATE
1997 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL DATE 2/10/97

NAME	PRESENT	ABSENT	EXCUSED
SEN. VIVIAN BROOKE	✓		
SEN. MACK COLE	✓		
SEN. TOM KEATING	✓		
SEN. DALE MAHLUM	✓		
SEN. BEA MC CARTHY	✓		
SEN. KEN MILLER	✓		
SEN. MIKE TAYLOR	✓		
SEN. FRED VAN VALKENBURG	✓		
SEN. BILL CRISMORE, VICE CHAIRMAN	✓		
SEN. LORENTS GROSFIELD, CHAIRMAN	✓		

SEN:1997
wp.rollcall.man
CS-09

SENATE NATURAL RESOURCES
EXHIBIT NO. 3
DATE 2/10/97
BILL NO. SB 224

Amendments to Senate Bill No. 224
1st Reading Copy

Requested by Senator Cole
For the Committee on Natural Resources

Prepared by Todd Everts
January 31, 1997

1. Title, line 9.
Strike: "75-20-502,"

[EXPLANATION: technical amendment-this section of law was repealed last session.]

2. Page 2, line 20.
Following: "certificate"
Insert: ", the renewal of a certificate,"

[EXPLANATION: provides for Board of Environmental Quality review of department decisions regarding renewals of certificates of environmental compatibility.]

3. Page 2, line 21.
Following: "may"
Insert: "within 30 days"
Following: "board"
Insert: "under the contested case procedures of Title 2, chapter 4, part 6"

[EXPLANATION: clarifies that an appeal of a department decision to the board will follow the contested case procedures under the Montana Administrative Procedures Act which provides notification and an opportunity for hearing, etc.]

4. Page 4, line 30.
Strike: "that" through "emissions"
Insert: "that is not employing best available control technology pursuant to 42 U.S.C. 7479 or is not employing lowest achievable emission rates as required by Title 75, chapter 2 or rules adopted under Title 75, chapter 2"

[EXPLANATION: this amendment strikes sulfur emission limitation trigger language "that is a solid fuel burning unit removing less than 90% of the sulfur dioxide emissions" and replaces it with a emission limitation trigger based on the maximum degree of reduction of sulfur emissions and other constituents using the best available control technology as defined under the Clean Air Act.]

5. Page 5, line 1.
Strike: "located in or"

[EXPLANATION: clarifies that only a facility that directly

affects (as opposed to located in) a sensitive area or species listed in this bill triggers the siting act process.]

6. Page 7, line 24.
Strike: "that" through "emissions"
Insert: "that is not employing best available control technology pursuant to 42 U.S.C. 7479 or is not employing lowest achievable emission rates as required by Title 75, chapter 2 or rules adopted under Title 75, chapter 2"

[EXPLANATION: this amendment strikes sulfur emission limitation trigger language "that is a solid fuel burning unit removing less than 90% of the sulfur dioxide emissions" and replaces it with a emission limitation trigger based on the maximum degree of reduction of sulfur emissions and other constituents using the best available control technology as defined under the Clean Air Act.]

7. Page 7, line 25.
Strike: "located in or"

[EXPLANATION: clarifies that only a facility that directly affects (as opposed to located in) a sensitive area or species listed in this bill triggers the siting act process.]

8. Page 9, line 6.
Strike: "A"
Insert: "Except for a facility under diligent onsite physical construction or in operation on January 1, 1973, a"

[EXPLANATION: section 75-20-202 regarding Major Facility Siting Act exemptions is being repealed in this bill, however this amendment preserves an existing exemption to the Act that was in 75-20-202 for those facilities greater than 150 megawatts built before 1973.]

9. Page 10, line 26.
Following: "(8)(d),"
Insert: "a statement explaining the need for the facility,"

[EXPLANATION: retains the statement of need for linear facilities.]

10. Page 12, line 18.
Following: "administering"
Insert: "Title 75, chapter 1, and"

[EXPLANATION: ensures that the Major Facility Siting Act fee may be collected for environmental assessments under the expedited review provisions in sections 1 and 2 of the bill.]

11. Page 12, line 30.
Following: "statement"

Insert: "or assessment"

[EXPLANATION: same as amendment 8]

12. Page 14, lines 17 through 20.
Following: line 16
Insert: ", other than those contained in this part,"
Following: "~~chapter~~." on line 17
Strike: remainder of line 17 through "The"on line 20
Insert: "A"

[EXPLANATION: clarifies ambiguities in this section resulting from combining air, water, and facility siting regulations into one agency.]

13. Page 14, line 21.
Strike: "is conclusive on all matters that the department"
Insert: "must be made under those laws."

[EXPLANATION: same as amendment 10.]

14. Page 14, lines 23 and 24.
Following: "~~board~~" on line 23
Strike: remainder of line 23 through "the" on line 24
Following: "~~board~~" on line 24
Insert: "Nevertheless, the"

[EXPLANATION: same as amendment 10.]

15. Page 14, line 25.
Following: "(1)(c)"
Insert: "or (3)"

[EXPLANATION: modifies section to conform to amendments in 75-30-301 that establishes different decision criteria for different types of facilities.]

16. Page 14, line 29 through page 15, line 2.
Following: "(4)" on line 29
Strike: "Within"
Following: "~~months~~" on line 29
Insert: "Except as provided in [section 1], within"
Following: "facility" on line 29
Strike: remainder of line 29 through "length" on page 15, line 2

[EXPLANATION: provides that electric transmission linear facilities under 30 miles in length are subject to comprehensive review if those facilities have significant environmental impacts.]

17. Page 15, line 21
Following: "75-20-104(8)(a)(i)"
Insert: "or (8)(b)"

[EXPLANATION: allows for a certificate holder for a facility

defined in 75-20-104(8)(b) (the new facility definitions in this bill) to apply for a renewal of a certificate prior to the certificate lapsing.]

18. Page 16, line 9.
Following: "**study**"
Insert: "**-- renewal hearing -- decision**"

[EXPLANATION: technical amendment--includes renewal hearing and department decision in section heading.]

19. Page 16, line 17.
Following: "~~75-20-227 and~~"
Strike: "subsection"
Insert: "subsections"
Following: "(3)"
Insert: ", (5), and (6)"
Following: "~~section~~"
Insert: "of this section"

[EXPLANATION: this amendment reflects the repeal of 75-20-227 and establishes department decision-making processes in subsections (5) and (6).]

20. Page 17, line 1.
Following: "reports."
Insert: "(5) Within 45 days after completion of the report pursuant to 75-20-226, the department shall make complete findings, issue an opinion, and render a decision upon the record, either granting or denying the renewal application or renewing the certificate with such changes in the terms and conditions as the board considers appropriate.
(6) The department may not renew a certificate either as proposed by the applicant or as modified by the department unless it finds and determines that the criteria in 75-20-301, considering any significant changes in need, alternatives, technology, baseline environment, and environmental impact, have been met.

[EXPLANATION: provides time period criteria for department decisions regarding renewals of certificates of environmental compatibility.]

21. Page 17, line 8.
Following: "~~appropriate.~~"
Strike: "For"
Insert: "Within 45 days after issuance of the report pursuant to 75-20-216, for"

[EXPLANATION: specifies a 45 day time frame for a department decision under the Major Facility Siting Act following the date in which the department submits a report of its studies, evaluations, recommendations, and other pertinent documents pursuant to 75-20-216.]

22. Page 17, line 9.
Following: "and"
Insert: "(8)"

[EXPLANATION: technical amendment - clarifying an internal reference.]

23. Page 18, line 14.
Following: "(3)"
Strike: "For"
Insert: "Within 45 days after issuance of the report pursuant to 75-20-216, for"
Following: "75-20-104(8)(a)"
Strike: "and"
Insert: ","
Following: "(b)"
Insert: ", and (8)(e) through (8)(g)"

[EXPLANATION: specifies a 45 day time frame for a department decision under the Major Facility Siting Act following the date in which the department submits a report of its studies, evaluations, recommendations, and other pertinent documents pursuant to 75-20-216.]

24. Page 18, line 17.
Following: ";"
Insert: "or"

[EXPLANATION: technical amendment]

25. Page 18, lines 23 through 26.
Following: "inhabitants" on line 23
Strike: "; or" through "life" on line 26

[EXPLANATION: eliminates language that allows a facility to be certified if an unmitigated impact or threat of injury to the environment, economy, and health is outweighed by the expected benefits that the facility will provide over its useful life.]

26. Page 19, line 16.
Strike: "restoration"
Insert: "reclamation"

[EXPLANATION: this amendment says that the department may require the applicant to post performance bonds to guarantee successful "reclamation" instead of "restoration". Net effect: "restoration" is to bring back to or put back into a former or original state...."reclamation" is an act or process reforming or rehabilitating.]

27. Page 20, line 8.
Following: "(8)(c)"
Insert: "or (8)(d)"

[EXPLANATION: technical amendment - internal section consistency]

28. Page 22, line 25.
Following: "is the"
Strike: "same as that"
Insert: "procedure"

[EXPLANATION: clarifies that judicial review of board decisions under the Major Facility Siting Act is the contested case procedure for judicial review under the Montana Administrative Procedures Act.]

29. Page 23, line 29.
Strike: "75-20-502,"

[EXPLANATION: technical amendment-this section of law was repealed last session.]

Senate Bill No. 224

Introduced By GREY BILL

SENATE NATURAL RESOURCES
EXHIBIT NO. 3A
DATE 2/10/97
BILL NO. SB224

A Bill for an Act entitled: "An Act generally revising the Montana Major Facility Siting Act; amending sections 75-20-102, 75-20-104, 75-20-201, 75-20-207, 75-20-208, 75-20-211, 75-20-213, 75-20-215, 75-20-216, 75-20-225, 75-20-226, 75-20-301, 75-20-302, 75-20-303, 75-20-304, 75-20-402, 75-20-403, 75-20-406, 75-20-1202, and 75-20-1205, MCA; repealing sections 75-20-202, 75-20-205, 75-20-218, 75-20-220, 75-20-221, 75-20-222, 75-20-227, 75-20-501, ~~75-20-502,~~ and 75-20-503, MCA; and providing an effective date and an applicability provision."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Expedited review.** (1) The department shall issue a certification decision within 180 days from the date on which an application is considered complete for a facility that:

(a) is unlikely to res[illegible] adverse environmental impacts based[illegible] 2]; or

(b) is presently in e[illegible] reconstruction, or relocat[illegible] significant impacts pursua[illegible]

(2) A facility that [illegible]

Exhibit # 3A (38 pages)
S.B. 224 (Doc SB 0224.01)
The full exhibit is available from:
MT Historical Society Archives
225 North Roberts
P.O. Box 201201
Helena, MT 59620-1201
Phone # (406)444-4774

Monday Feb 10

DATE 2/10/97

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 71 HB288

< ■ > PLEASE PRINT < ■ >

Note

Check One

Name	Representing	Bill No.	Support	Oppose
JOHN ARRIGO	DEQ	HB288	X	
Ann Compton	DEQ	SB224		
Ray Beck	DNRC	HB71	X	
Ed James	Flant Creek Water Users	HB71	X	
Jay Hendrix	" " "	HB71	X	
ANGELA JANACARO	MT MINING ASSN	HB288	X	
Ed Lord	FCWAL	HB71	X	
Rick Dale	Golden Sunlight Mines	HB288	X	
Mike Murphy	MWRA	HB71	✓	
Anne Miller	DNRC	HB71	Informational	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

passed the bill to address that situation. In the meantime, some money has been raised that affects them, but there's still concern over the liability language, so this is what needs to be fixed.

Motion/Vote: SEN. CRISMORE MOVED HB 288 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 224

Amendments: sb022401.ate - **EXHIBIT 2.**

Motion: SEN. MACK COLE MOVED SB 224 DO PASS AS AMENDED - sb022401.ate.

Discussion: CHAIRMAN GROSFIELD reminded the committee they started executive action on this bill last time they met, and they adopted the amendments with a slight clerical amendment, so amendments 22401.ate were on the bill. He has an interest in making at least one additional amendment. He's not had a chance to talk to **SEN. COLE** about them and he's not really had a chance to get his amendment nailed down to just exactly what he wants to do. But it's a fairly simple amendment if he can just figure out the numbers he wants to use. It might be easier to work from the gray bill, although the official amendment will have to reference the official bill. He would like to amend the triggers that are in this bill. The first one is fairly straight forward and simple. On page 12 we are dealing with the triggers for definition of facility. One of the triggers (4) states that it would require a permanent work force greater than 500 workers. He would move that in our bill, we change that 500 workers to 90. He doesn't believe there's any project in this state that's going to have 500 workers. Why have a trigger that's not realistic in practice?

REP. HALEY BEAUDRY, House District 29, Butte, said they've gone up and down on these trying to find the right trigger level. He believed that for getting permits for power plants, one could run a power plant with a 250 mega watt back stop with 90 jobs. There's a little plant in Billings that runs with less than 40, and one in Colstrip which also runs with less than 40 people. They're attached to other plants and people are assigned to other duties, so permanent full-time jobs are only full-time jobs in that they are dedicated specifically to the generation of energy. For example, if you built a co-gen on site of a lumber mill or pulp plant, you wouldn't count all of the people who are working in the pulp plant who would be there, just the ones which were dedicated strictly to electric generation. He believed 500 was a quite large trigger.

SEN. KEATING stated BGI is the one that **REP. BEAUDRY** is talking about, and they are at about 57 megawatts and they have 35

employees. If they double that to 70, you're at 100 megawatts. We're talking about exempting a 250 megawatt unit. If it takes more than 90 people, then the consequences are that they have to go out and do all the economic surveys and certify the need of the product, etc. Is that what you're saying?

CHAIRMAN GROSFIELD commented, if they are at 57 with 30 employees and doubled it, he doesn't think doubling employees necessarily follows. His understanding is that the off-the-shelf version is environmentally benign and it's his understanding the work force would not be much more than double.

SEN. KEATING stated he failed to understand why **CHAIRMAN GROSFIELD** was trying to peg a threshold to the number of workers. We want more jobs in this state, and what you're saying is if somebody's going to offer more than 90 jobs on a project, they're going to have to jump through an EIS.

{Tape: 1; Side: b; Approx. Time Count: 4:00}

We're setting the threshold at 250 megawatts. He doesn't care if it takes a thousand people to do that, the megawatt level is the threshold because it determines the size of the project which usually determines the amount of pollution and that sort of thing. The number of people on the job certainly is inconsequential, except if you put in too low a threshold and then start putting perfectly good projects through a process that's completely unnecessary. If you want to go to 300 workers, nobody would object to that. That might be reasonable. The amount of 500 workers was picked for a reason.

SEN. COLE said at this late date he was rather surprised this suddenly showed up. The reason they picked the figure of 500 was for purposes of a trigger. He would hate to have a plant go to 475, because going higher meant jumping through all these additional hoops. He would have no problems dropping it to 300 but wanted the amount to be much higher than 90.

SEN. TAYLOR said the 150 figure had been arbitrarily thrown out. He concurred with **CHAIRMAN GROSFIELD** that the triggers were too high, and he couldn't support that high a trigger, but he certainly would balance that with **SEN. KEATING's** proposal. He could live with 150.

CHAIRMAN GROSFIELD stated that **SEN. KEATING** made a good argument. He asked **SEN. COLE** why we have a work force trigger in here at all? **SEN. COLE** answered that they were spending all this time on it, they were trying to get some triggers that would have a major affect, as this is a major facility siting. They went through various triggers. They felt if they went over 500 permanent employees, that would be triggering the Major Facility Siting Act. That was the reason that figure came up as they were looking at various things from Class 1 to streams. If you get a

major work force in there that could be another trigger. It's never been in there before. Probably industry won't agree with this now, but that was one of the figures put in and there was no objections to it at the time as he recalled, and it was part of their total plan. He hates to start messing with these things now.

SEN. KEATING said part of the reason for the person threshold was because quite possibly these facilities would be out in the coal area where it's sparsely populated and four or five hundred people coming into a small community might have an impact. A survey at that point would be justifiable to see what kinds of impacts there were and if the facility needed to come up front with some impact money for the schools or roads or something like that. That information would be good to have, and he thinks that's probably the reason for the people impact on the facility. He guessed 300 people might be a sufficient impact, but he thought less than 300 people wouldn't necessarily be that big an impact. They have four or five hundred at Colstrip, which is quite a huge facility. They're talking about smaller facilities.

Substitute Motion: **SEN. KEATING MOVED TO FURTHER AMEND HB 288.**

If the work force is greater than 300 workers, then it becomes a major facility.

CHAIRMAN GROSFIELD called on **REP. BEAUDRY** who was a member of this collaborative group and primarily represented industrial interests. **REP. BEAUDRY** believed 90 was an appropriate number because that was the permanent work force of a 240 megawatt facility. **SEN. COLE** told them that there was a reason for the 500 figure. **SEN. KEATING** told them they should go to 300, and he thinks they're grabbing a number out of the air. **SEN. KEATING** believes that it ought to be at least 500, if not 500, then 1,000. The essence of the reason to trigger a Major Facility Siting Act is to the impact on the community and the state as a result of its being built. That ought to be the basis that we decide upon, whether the triggering mechanism justifies a more thorough look at the project. It would appear to him that if 90 workers is what it takes to run a 240 megawatt facility and we're setting a trigger in here based on megawattage of 250, and that's been our principal trigger in the past, that is an appropriate number and one that we can at least justify.

SEN. TAYLOR said he concurred. He thinks of some of these small communities, 90 or 150 people moving in has an impact and he agrees again with **SEN. KEATING,** we need the jobs, but there has to be something tied to these triggers that will make sense instead of just picking numbers and throwing them around. He doesn't want to walk out of this committee looking like a fool because we picked triggers that are not reasonable or prudent.

SEN. MAHLUM guessed 300 sounded like a reasonable number everyone has kind of bought into and it seems like a reasonable substitute motion. He'd like to point out to the committee that these different triggers that are in here say "or", "or 300 workers", "or 230 kilowatts", so if one of them kicks in, then that's what limits it. He guessed he'd go with the 300 figure. For some reason, we need a whole lot more employees and he'd sure hate to turn them away to generate the 250 megawatts. Everyone has kind of accepted 300, let's go with that number.

SEN. MAHLUM said if they have 250 megawatts in here, and it takes 192 people to run and make a profit, that's what they're going to use. If it takes 301 to run it, that's what they're going to use. If it takes 92 people, that's what they're going to use because they want to make a profit. They don't want to put more people onto the payroll.

CHAIRMAN GROSFIELD stated he was satisfied for the time being in going with 300, but he would ask **SEN. COLE** that he look into it a little bit further and see if maybe it might be more realistic to adjust that number further one way or another. That seemed to be the main concern at the hearing. He'll work with 300 for the time being. Question is called.

Vote: **THE MOTION TO AMEND HB 288 CARRIED WITH SEN. TAYLOR** and **SEN. VAN VALKENBURG** voting no.

SEN. VAN VALKENBURG wanted the record to reflect he would have voted for the Chairman's amendment had the substitute motion not passed.

CHAIRMAN GROSFIELD asked for clarification of the 300 ton of particulate matter at 10 microns or less found on page 7 and again on page 11. His understanding is that number is a little bit different to start tinkering with because if you lower that number too much it has a net result of raising SO^2 emissions, and vice versa.

REP. BEAUDRY said one of the methods right now that's most common in burning coal to produce power is to burn coal in a fluidized bed boiler. So you mix rock, dirt, and limestone. The limestone is calcium carbonate. The calcium sucks up the sulphur as much as it can and forms a calcium carbonate with sulphur which is gypsum. Some of that escapes. If you want less and less of that to escape, you throw in more and more rock and keep the residence time higher. You increase the residence time so it stays in the boiler longer. As you try to reduce the sulphur, you add more and more limestone and in this system, you will increase the emissions out of your stack. That just stands to reason. Whatever it is, it's 99.9999% is captured, the little bit that goes through is 1 ten thousands of a per cent of something. So the bigger number you're keeping the per cent of, the bigger number goes through the stack. That's what you have to do.

CHAIRMAN GROSFIELD asked, if you increased it are you dealing with less sulphur? **REP. BEAUDRY** answered if you want to reduce the sulphur you can put in more rock. Eventually you get to the point where you have a furnace full of rock and it won't burn. That's part of designing the fluidized bed system. You reach the optimum point. Right now that optimum point is .8% sulphur.

CHAIRMAN GROSFIELD asked, in that trigger, can you describe what thought went into pegging it at 300, instead of 200, for example? **REP. BEAUDRY** answered first he understands that it says the emitting particulate matter (pm10), the other type of emission, besides out of the stacks point of emission, is the dust behind the pickup tires. Some of that is pm10, so the bigger the plant gets, the more vehicles you're driving around there, the more the wind blows. In eastern Montana, they have windy days. That's part of that total emissions we're talking about there, it's a calculation push, you can't measure it. Fusitive emissions are based on models, calculations, computer models. If you drive a pickup on a dusty road, the dust is comprised of such and such material, here's how much emissions you will have. The lower that number goes, the more restrictive we are on the size of the plant. He doesn't know the numbers off the top of his head, how to design a plant right here, because there are 10,000 variables, but there are some plants that could run well with 200 tons of pm10 a year and, in fact, he believes the plants in Montana that qualify as qualified facilities emit less than 200 tons per year.

SEN. TAYLOR asked how does the 300 tons particulate here compare with federal statutes? Is there a federal or a state limit on the emission? This says emitting 300 tons a year particulate matter at 10 microns or less. How does that stack up with federal standards? **REP. BEAUDRY** believed they could not compare that number to standards. There is the Title 5 Air Quality Permit that's federal and requires you to perform in a certain manner.

SEN. TAYLOR asked where the 300 tons wording came from? **SEN COLE** answered that in the collaborative committee over the last 2 years, they tried to look at different furnace types, different fuels, different mixes of fuels and tried to calculate where those numbers would be. It's difficult.

SEN. TAYLOR said he guessed he was going back to the Chairman's question again. You have 300 tons. Now he has a feel of how that was arrived at. What happens if it drops to 200 tons? The smaller plant, would that meet a 250 megawatt plant, with 300 employees. **REP. BEAUDRY** answered there isn't a 250 megawatt plant. There are hundreds of different combinations of fuels, of locations and furnaces that would produce 250 megawatts of electricity. So there isn't a 250 megawatt plant. Yes, you could design a 250 megawatt plant, you could come up with some

250 megawatt plants that would be less than 200 tons per year pm10.

SEN. KEATING commented, if you're dealing with Montana coal, it has a sulphur content that generates SO^2, you're using rock to reduce the SO^2 compliance, so depending on the coal you're using, you may have to have 300 tons of parts per million in order to keep the SO^2 at state levels. **REP. BEAUDRY** replied 300 tons per year comes from a 250 megawatt power plant, using best available control technology (BACT), and burning Montana low sulphur coal as the fuel. Your best available control technology was the fluidized bed boiler. It was not a wet scrubber or something else, it was a fluidized bed boiler, which is the one we mix the limestone in with the fuel. We arrived at the number, you may embarrass some people by calling it scientific, but we arrived at the number. It is a calculated, derived number.

SEN. TAYLOR commented that in using Montana coal, which is good, and using this type of furnace, which he understands, in order to lower that number to 300 or lower, you'd have to go to a different system. Would that be much more expensive or just a different system, or do we have the technology? **REP. BEAUDRY** answered we don't have the technology. It may be available but it is not BACT. Now we hear of technology that's available that's proposed in Wyoming, but it isn't BACT yet, it's still an invention so far.

SEN. COLE stated there was a scientific figure used and the 300 figure is not an arbitrary figure in any way. **CHAIRMAN GROSFIELD** stated he wanted to have this discussion because he thinks it's important to discuss the triggers and be sure we're someplace in the ball park.

SEN. VAN VALKENBURG said he was always taught, as he was growing up in Montana, that if you took someone to a dance, you should dance with the person you went to the dance with. **SEN. COLE** and his pals decided to take Northern Plains and the EIC to this dance, but at some point apparently they didn't look quite as good to them as somebody else. **CHAIRMAN GROSFIELD** asked **SEN. VAN VALKENBURG** to be careful. He remembered an incident a couple of sessions ago where a certain Senator got into a hassle over a comment that is very close to what is being said at this time. **SEN. VAN VALKENBURG** said he was quite familiar with that, and he guessed that, to him, is one of the best reasons to vote against this bill. This started out as one thing and ended up as something entirely different.

SEN. COLE responded there are triggers that are not necessarily one side or the other, even in amending the bill. If you look on page 7, item 4, where we took out the 90% of sulphur and put in they have to employ the best available control pursuant, so on and so forth, this was definitely one of the items that made sure that we would not be burning dirty coal, because it's much easier

to take out 90% of something that is high in sulphur than it is to take out 90% of something that is very low in sulphur. There was everything that was possible in this bill. Sometimes maybe it's a good bill when neither side thinks it's a wonderful bill and he thinks we have a little of that in this bill right here today.

SEN. BROOKE commented that the time line always concerned her in these cases. She thinks if we examine the workings of any regulatory department here in our state, we see so much of what our state employees, our technicians have to go through due to those deadlines. She's always concerned with what she sees as a tightening up of those time frames. She understands that people looking for permitting need to have a pretty good idea of when they can expect an answer from the department. However, she's never real confident that with all the good work that we do, our departments are still very burdened with this kind of work. Also, we've seen an incredible turnover in some of these departments, so we have people who are just learning, kind of on the job training, and whether they can meet these time frames, that's one of her biggest concerns about this bill. Another concern she has is that we're going to be facing a lot of legislation in regard to restructuring of the utility industry, and it almost seems like with both those efforts, we're going from what she considers a well balanced regulated industry to something that really opens the door for unregulation. This has a lot of good parts in it and she does agree that the Siting Act needed to be revised. She's hesitant to go this far at this time.

SEN. COLE said the time lines were something that the department was involved in. The department does feel this is a bill they do support and they are going to have to deal with these time lines. They are time lines that will be beneficial for the state as a whole, and he doesn't have any problems with them. Part of the reason for these improvements on the bill, is because of the fact that we are restructuring. He's not going to have stranded power or stranded money sitting out there as time moves on.

CHAIRMAN GROSFIELD stated he agreed with **SEN. BROOKE** that the Major Facility Siting Act was in need of review and change. If you look at some of the language this bill repeals, it becomes very obvious that the Major Facility Siting Act was passed in an era and an atmosphere of fear. Fear that major utilities were going to come in to Montana, drain the Yellowstone River, and rape and pillage all of eastern Montana. As you read through some of these sections that we are repealing, it's amazing to him that anything ever got sited in Montana. Reading through this you get the distinct sense that the legislature in 1973 made a concerted effort to foreclose the possibility of major facility siting within the State of Montana. He believes this bill is a bill that is very much needed. **SEN. KEATING** is exactly right, we need to be sure that we are open to industry that will bring more

jobs to Montana. On the other hand, we, as the Natural Resources Committee, need to be sure that we address that responsibly, and he thinks we have here. Some people left the table over some issues during the process, that happens, and be that as it may, that may end up happening with the electrical industry restructuring bills that are going on, though he hopes it doesn't. It has happened in the past with regard to a lot of other issues we've dealt with. That does not relieve us of the responsibility or give us an excuse to just back away from the issue because everybody is not agreeing.

This legislature is not a consensus process. The legislature is a democratic process. If we take votes, and we took one today, 26/24 on reconsidering the motion, the adverse committee report, there's no consensus there and that's an issue that there will not be consensus on, but that doesn't mean that we back away from it and don't pay any attention to the issue. The bill didn't satisfy everybody but it has satisfied the regulators who are professional and competent in this area, and he has great confidence in the regulators of this state, be it air quality or water quality or whatever, and he thinks we have an excellent bill here and he certainly intends to support it wholeheartedly.

Motion/Vote: **SEN. COLE MOVED SB 224 DO PASS AS AMENDED. THE MOTION CARRIED WITH SEN. VAN VALKENBURG** and **SEN. MCCARTHY** voting no.

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
	2/08	2/19		TABLED ON 02/19 VOTE: 18-0		
SB0001	GROSFIELD, LORENTS 1/17	CLARIFY NITRATE WATER QUALITY MEASUREMENT 2/03		CONCUR 2/7 VOTE: 12-6		2/11
SB0050	KEATING, THOMAS 1/24	ALLOWING THE "BLANKET" ASSIGNMENT, RELEASE, ETC., OF OIL/GAS/MINERAL LEASES 1/31		CONCUR 2/5 VOTE: 18-0		2/06
SB0059	SWYSGOOD, CHARLES 1/24	EXTEND RESERVED WATER RIGHTS COMPACT COMMISSION 1/31		CONCUR 2/5 VOTE: 17-1		2/06
SB0072	MESAROS, KEN 1/24	FORMALIZE WATER INFORMATION SYSTEM AS PART OF NRIS 2/03		CONCUR 2/7 VOTE: 18-0		2/11
SB0097	GROSFIELD, LORENTS 2/03	REVISE WATER LAWS 3/05		3/21 VOTE: 12-6		
SB0108	BECK, TOM 2/01	REVISE WATER ADJUDICATION LAWS 3/05		CONCUR AS AMENDED 3/10 VOTE: 18-0		3/11
SB0131	MESAROS, KEN 1/27	INCREASE ALLOWABLE ACREAGE FOR SCHOOL FACILITY 2/03		CONCUR 2/7 VOTE: 18-0		2/11
SB0175	SWYSGOOD, CHARLES 2/12	RATIFY STATE-BLM RESERVED WATER RIGHTS COMPACT 3/07		CONCUR 3/10 VOTE: 18-0		3/11
SB0223	COLE, MACK 2/17	CLARIFY AUTHORITY OF COAL BOARD TO ASSIST LOCAL GOVERNMENTS 3/07		CONCUR 3/10 VOTE: 18-0		3/11
SB0224	COLE, MACK 2/22	REVISING THE MAJOR FACILITY SITING ACT 3/14		3/21 VOTE: 15-3		
SB0273	NELSON, LINDA 2/21	RESERVATION OF WATER FOR CERTIFICATE 3/21	3/24	CONCUR AS AMENDED 4/2 VOTE: 18-0		
SB0315	MCCARTHY, BEA	REVISE SOLID WASTE CONTAINER SITE DEFINITION				

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Dick Knox, on March 14, 1997, at 3:00 p.m., in Room 437

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Hal Harper, Vice Chairman (Minority) (D)
Rep. Haley Beaudry (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney
Rep. Trudi Schmidt (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: Rep. Doug Mood

Members Absent: none

Staff Present: Kathleen Williams, Legislative Services
Stephanie Braun, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 224 (3/5), SJ 13 (3/6)
Executive Action: SB 332 DO CONCUR as AMEND (11-6)

Rep. Knox asked Rep. Tash to report on the Subcommittee meeting held with regards to SB 97.
{Tape: 1; Side: a; Approx. Time Count: 0.2; Comments: none.}

Rep. Tash reported to the Committee about the Subcommittee meeting held on Wednesday morning at 7 a.m. to decide on amendments to SB 97.
{Tape: 1; Side: a; Approx. Time Count: 2.2; Comments: none.}

{Tape: 1; Side: a; Approx. Time Count: 29.8; Comments: none.}

Jan Sensibaugh commented that the DNRC has specific rules about operating as a business.
{Tape: 1; Side: a; Approx. Time Count: 31.7; Comments: none.}

Rep. Beaudry wants to know what happens if someone is collecting tires and can't pay the bond.
{Tape: 1; Side: b; Approx. Time Count: 0.3; Comments: none.}

Jan Sensibaugh said that the people would have to be licensed after a certain amount of tires.
{Tape: 1; Side: b; Approx. Time Count: 1.2; Comments: none.}

VOTE: Rep. Orr called for a question. Voice vote, 11-6 (Rep. Mood was absent for the vote) Reps. Curtiss, Tuss, Wagner, Orr, Trexler and Taylor voted no. Rep. Story will carry this Bill on the House floor.

HEARING ON SB 224

Opening Statement by Sponsor: **Sen. Mack Cole, SD #4** opened
{Tape: 1; Side: b; Approx. Time Count: 6.9; Comments: none.}

Proponents' Testimony:
Jan Sensibaugh, Department of Natural Resources and Conservation submitted **Exhibit #1**
{Tape: 1; Side: b; Approx. Time Count: 11.1; Comments: Exhibit #1.}

Jim Mockler, MT Coal Council
{Tape: 1; Side: b; Approx. Time Count: 15.0; Comments: none.}

Rep. Haley Beaudry, HD #35
{Tape: 1; Side: b; Approx. Time Count: 18.0; Comments: none.}

Tom Ebzrey attorney representing Portland General Electric and Puget Power and Electric
{Tape: 1; Side: b; Approx. Time Count: 24.1; Comments: none.}

Ed Bartlett, MT Power Company in Butte
{Tape: 1; Side: b; Approx. Time Count: 27.3; Comments: none.}

Sen. Tom Keating, SD #5
{Tape: 1; Side: b; Approx. Time Count: 27.3; Comments: none.}

Candace Torgerson, Billings Generative Inc. (BGI)
{Tape: 1; Side: b; Approx. Time Count: 28.7; Comments: none.}

Opponents' Testimony:

Patrick Judge, Montana Environmental Information Center
{Tape: 1; Side: b; Approx. Time Count: 29.8; Comments: none.}

{Tape: 1; Side: b; Approx. Time Count: end; Comments: flipped tape at the very end.}

{Tape: 2; Side: a; Approx. Time Count: 0.1; Comments: none.}

Richards Parks, owns and operates a fly fishing business in Gardiner submitted **Exhibit #2**
{Tape: 2; Side: a; Approx. Time Count: 6.1; Comments: Exhibit #2.}

Debbie Smith, MT Chapter of the Sierra Club
{Tape: 2; Side: a; Approx. Time Count: 9.2; Comments: none.}

David Ditloff, MT Audubon
{Tape: 2; Side: a; Approx. Time Count: 13.6; Comments: none.}

Brett Brownscombe, MT Wildlife Federation
{Tape: 2; Side: a; Approx. Time Count: 15.2; Comments: none.}

Questions From Committee Members and Responses:
{Tape: 2; Side: a; Approx. Time Count: 19.6; Comments: none.}

{Tape: 2; Side: a; Approx. Time Count: end; Comments: flipped tape at the end.}

{Tape: 2; Side: b; Approx. Time Count: 0.1; Comments: none.}

Closing by Sponsor: **Sen. Cole closed**
{Tape: 2; Side: b; Approx. Time Count: 17.9; Comments: none.}

HEARING ON SJ 13

Opening Statement by Sponsor:
Sen. Ken Miller, SD #11
{Tape: 2; Side: b; Approx. Time Count: 25.7; Comments: none.}

Proponents' Testimony:
Linda Reed, Governor's Senior Economic Advisor
{Tape: 2; Side: b; Approx. Time Count: 28.2; Comments: none.}

Steve Brownings, Canyon Ferry Recreation Association (CFRA) submitted **Exhibit #3** (only written testimony was submitted)

Al Kington, IFPA
{Tape: 2; Side: b; Approx. Time Count: 31.5; Comments: none.}

Sen. Mack Cole, SD #4
{Tape: 3; Side: a; Approx. Time Count: 0.5; Comments: none.}

HOUSE NATURAL RESOURCE COMMITTEE

ROLL CALL

DATE OF MEETING: 3/14/97

NAME	Yes	No	Comment
Rep. Bill Tash (VC Maj.)	✓		
Rep. Hal Harper (VC Min.)	✓		
Rep. Bob Raney	✓		
Rep. Jon Ellingson	✓		
Rep. Aubyn A. Curtiss	✓		
Rep. Carley Tuss	✓		
Rep. Trudi Schmidt	✓		ok
Rep. Emily Swanson	✓		
Rep. Robert R. Story, Jr.	✓		
Rep. Haley Beaudry	✓		
Rep. Douglas T. Wagner	✓		
Rep. Doug Mood	✓		excused
Rep. Scott J. Orr	✓		
Rep. Cliff Trexler	✓		
Rep. Lila V. Taylor	✓		
Rep. Jay Stovall	✓		
Rep. Karl Ohs	✓		
Chairman Dick Knox	✓		

Exhibit #1
SB 224
3/14/97

TESTIMONY ON SENATE BILL 224

Jan P. Sensibaugh
Permitting and Compliance Division
Department of Environmental Quality

Senate Bill 224 makes amendments to the Montana Major Facility Siting Act. The Department of Environmental Quality was a member of the collaborative working group that Senator Cole described, and my testimony describes the specific changes that Senate Bill 224 would bring to the state's facility siting process.

Senator Cole was correct in characterizing these changes as "sweeping". In order to make siting review more responsive to the needs of a fast-paced, competitive industry, the time frame for comprehensive review of large projects is cut virtually in half--from 22 months to twelve months. In addition, an expedited review process is established for smaller projects that do not pose the risk of significant environmental impacts. This expedited review would process an application with an environmental assessment in six months.

The working group felt that in the new competitive arena, given restructuring of public service utilities, the marketplace will determine what new generation units come on line. These proposals will have to measure up to the rigors of competitive review by the utilities soliciting power proposals. Therefore, the state's determination of need for new plants has been eliminated. Some group members felt that the Siting Act needed to reduce the second-guessing of an energy provider's judgement on suitable locations for a proposed plant. Therefore, under this bill, the alternative site analysis for generating units has been replaced by the requirement that alternatives considered by the department must be specific to the applicant's proposed site. The minimum impact standard for generation that required a proposal to be the very best plant at the very best site, has been replaced by the requirement that the facility incorporate all reasonable, cost effective mitigation. Any unmitigated impacts must not pose any threat of serious injury or damage to public health or the environment. Finally, the public interest determination for generation has been repealed.

However, because Montana landowners host transmission lines and pipelines on lands they own and operate, and because companies have the power to condemn rights-of-way on private lands through the exercise of eminent domain, all existing decision standards remain in place for linear facilities.

Because siting act review includes a well developed public participation program, and staff coordination and facilitation of required permits, the working group desired an "opt-in" clause, whereby a project sponsor can request siting act

review for a proposal that would not otherwise be covered.

The final issue which the working group could not agree on was the trigger mechanism that identifies what size facility requires Siting Act review. As Senator Cole indicates, there was a degree of consensus on the need for impact based triggers based on a proposed plant's location or actual emissions. This is a better predictor of a plant's environmental effects than mere consideration of its size. Under Senate Bill 224, generating units that emit 300 tons per year of small particulate require siting act review, as do plants that do not employ the best available control technology for sulphur dioxide and nitrous oxide emissions. Also covered are plants that would directly effect very sensitive lands such as national parks or wilderness areas.

What I've described include the substantive changes to the Major Facility Siting Act. Thank you for the opportunity to comment.

exhibit #2
SB224
3/14/97

Northern Plains Resource Council

P.O. Box 941 Helena, MT 59624
(406) 442-4142 ph • (406) 449-8193 fx • nprcleg@desktop.org

Testimony for SB 224

Mr. Chairman, members of the committee my name is Richard Parks. I own a sporting goods store and fishing outfitting service in Gardiner, MT., the north entrance to Yellowstone Park. I appear today on behalf of Northern Plains Resource Council, a grass-roots citizens group endeavoring to protect Montana's people, their communities, air, land and water for over 25 years. I am testifying today in opposition to SB224.

Before I begin discussing the specifics of the bill, I'd like to present a little history. In 1995, the legislature asked us and all the other interests in this room today to participate in the Major Facility Siting Act Reform Working Group. Our charge was to develop consensus revisions to the Act and present them to this legislature. Unfortunately after two years of work, the group was unable to reach consensus and fell apart a couple of months ago.

During the time the group existed there were a number of things discussed, many of which you see in the bill before you today. Items such as the fast track permitting process, the elimination of the "need" provision and the decision standard were all items NPRC agreed to contingent on the group developing a mechanism to trip the act which we believed would protect the public and the environment. The trigger presented in this bill does neither.

I must also say in reference to the Working Group that I am disappointed in Senator Cole. Over the complaints of many members of the Working Group, Senator Cole insisted on drafting a bill containing what he believed to be the areas of agreement amongst its members. We continually told the Senator that we felt this was a bad idea as the items on which we tentatively reached consensus were contingent upon the trigger mechanism, but he continued on with his bill anyone. Now, we have before SB224 containing many of these items. I sincerely believe the Senator Cole violated the spirit if not the written rules of the Working Group.

Now to the bill itself. I am going to focus my testimony on the trigger mechanism. Without an adequate method of triggering the Act, everything else is pointless.

The trigger mechanism in this bill is composed of essentially five parts and if

Parks

a proposed facility violates any of these five criteria, it is subject to the provisions of the Act. These parts are: emitting over 300 tons of particulate matter at 10 microns or less; not removing at least 90% of sulfur dioxide emissions; employing over 500 permanent workers; the fourth part trips the act if you build in the proximity of a Class I air shed, national park, wilderness area or the like and finally if your plant exceeds 250 megawatts of generation capacity, you trip the act.

We support a concept where actual environmental impacts trigger the Act rather than an arbitrary number of megawatts as currently exists. This is a new idea and one with a lot of merit. Unfortunately none of the triggers in this bill are sufficient. It's our belief that the only one of these different triggers that will ever be used is the 250 megawatts, all the others are set at such a level as to be irrelevant.

In contrast, I present the committee the proposal offered during the Reform Working Group. This proposal was created and supported by all the conservation interests in the Group. We believe this is a more appropriate method for triggering the Act. The trigger levels in our proposal were adopted from a document created by the Montana Power Company. This proposal was generated to ensure that proposed facilities which had an impact to the air, water or a local community were subject to review.

However, this proposed trigger represents quite a departure from the current Act. It was designed to encourage environmentally clean development. As you will note on the chart, depending on the type of generating technology a company is using, much larger plants could be constructed without Siting Act review than has previously been the case. The cleaner the technology a developer chooses to employ, the larger a facility could be without tripping the Act. The reason NPRC helped create and still supports this proposal is because if a facility does not meet any of these trigger values, the chances of that facility having a significant impact on the air, water or community are negligible. We feel this trigger puts the ball in the developers court. It becomes the developers choice whether or not they want to trigger the Act depending on the technology they choose to employ.

I urge you to adopt these trigger levels as an amendment to Senator Cole's bill. Without these amendments, SB224 renders the Siting Act meaningless.

SB224
3/14/97
Exhibit #2

Northern Plains Resource Council

P.O. Box 941 Helena, MT 59624

(406) 442-4142 ph • (406) 449-8193 fx • nprcleg@desktop.org

TESTIMONY OF RICHARD PARKS
NORTHERN PLAINS RESOURCE COUNCIL
SB-224

Mr. Chairman, members of the committee, for the record my name is Richard Parks. I own and operate a sporting goods store and fishing outfitting service in Gardiner, MT. I appear today on behalf of Northern Plains Resource Council, a grassroots organization dedicated for over 25 years to the protection of Montana's people, their communities, air, land and water.

We oppose SB-224. It is in no sense a consensus bill because the trigger levels that would serve to protect Montana from irresponsible development do not appear in exchange for the elimination of the determination of need. MONTANA IS ENTITLED TO HAVE A DETERMINATION OF NEED OR PROTECTIVE TRIGGER LEVELS - NOT NEITHER AS IS THE CASE HERE.

I call your attention to Representative Ellingson's HB-494 recently tabled by this committee. Amend SB-224 to use the trigger levels in HB-494.

As a practical matter the time frames identified in SB-224 are so tight as to be functionally impossible. This does no one, applicant, public or reviewing department any good. Amend the bill to lengthen the time frames.

Quite simply, the combined effect of SB-224 with SB-390 will be the conversion of eastern Montana to Appalachia - Montana would be better served by killing these bills.

Exhibit #2
SB224
3/14/97

Proposed Environmental Impact Based Triggers and Size of Generating Facility Allowed by Each Trigger Without MFSA Review

	Proposed Trigger	MW of gas combustion turbine with equal impact	MW of Colstrip 1 and 2 technology with equal impact	MW of Colstrip 3 and 4 technology with equal impact	MW of pulverized coal with equal impact
Sulfur Dioxide	1000 tons/year	30,500	100	297	164
PM10	75 tons/year	no figures available but 150 MW cogeneration plant generates roughly 88 tons/year			
Carbon Dioxide	2,000,000 tons/year	505	247	247	270
NOx	2000 tons/year	382	144	132	141
Water Consumed	300 million gallons	1,142	61	61	96
Solid Waste Generated	150,000 tons/year	unlimited	381	unavailable	564
Water Pollution	10% increase in TDS in ground or surface water	no figures availble			
Employment/ Population	500 permanent jobs or 6% population increase within 60 mile radius	unavailable	667	unavailable	unavailable

Parks

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

NATURAL RESOURCE COMMITTEE BILL NO. SB 224

DATE: 2/14/97 SPONSOR(S) Sen. Mack Cole

PLEASE PRINT LEGIBLY

NAME & ADDRESS	REPRESENTING	BILL	PROPONENT	OPPONENT	INFORMA-TION WITNESS
Ed BARTLETT	MONTANA POWER Co.	SB 224	X		
Richard Parks	MPLC	SB 224		X	
[illegible]	BCI	SB 224	X		
[illegible]	[illegible]	SB 224			
Pat Judge	MEIC	SB 224		X	
[illegible]	[illegible]	SB 224			
Brad Brownscombe	MT Wildlife Fed	SB 224		X	
[illegible]	[illegible]	SB 224			
[illegible]	DEQ	SB 224	X		
[illegible]	[illegible]	SB 224			
[illegible]	[illegible]	SB 224	X		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Dick Knox, on March 21, 1997, at 3:00 p.m., in Room 437

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Hal Harper, Vice Chairman (Minority) (D)
Rep. Haley Beaudry (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Doug Mood (R)
Rep. Karl Ohs (R)
Rep. Bob Raney
Rep. Trudi Schmidt (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: Scott Orr

Members Absent: none

Staff Present: Kathleen Williams, Legislative Services
Stephanie Braun, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 607 (3/14), SB 273 (3/7) , SB 315 (3/7)
Executive Action: SB 97 (15-3) DO CONCUR, SB 224 (12-6) DO CONCUR, SJ 13 TABLED (10-8)

HEARING ON HB 607

Opening Statement by Sponsor: Rep. Larry Grinde, HD 94 submitted **Exhibit #1**
{Tape: 1; Side: a; Approx. Time Count: 1.3; Comments: Exhibit 1.}

{Tape: 3; Side: a; Approx. Time Count: 3.7; Comments: none.}

Discussion ensues between Rep. Harper, Don MacIntyre (DNRC), Rep. Tash and Susan Cottingham about the Tribes and where they could make objections in this process.
{Tape: 3; Side: a; Approx. Time Count: 5.0; Comments: none.}

MOTION: Rep. Tash moved the amendments (sb009701.akw)

Motion/Vote: Question was called for; (18-0), amendment is adopted
AMENDMENTS: Rep. Taylor hands out her amendments; sb009702.akw and moves the amendments
{Tape: 3; Side: a; Approx. Time Count: 14.5; Comments: none.}

Discussion:
{Tape: 3; Side: a; Approx. Time Count: 17.7; Comments: none.}

MOTION/VOTE: Question is called for; individual roll call vote; amendment passes 10-8

Rep. Harper is nervous about Rep Taylor's amendment.
{Tape: 3; Side: b; Approx. Time Count: 1.6; Comments: none.}

VOTE: Question is called for on the Bill with the attached amendments, individual roll call vote; (15-3) DO CONCUR as amended; Reps Raney, Tuss & Schmidt vote no

EXECUTIVE ACTION ON SB 224

Motion: Rep. Beaudry moves DO CONCUR

Discussion: Rep. Harper feels this Bill guts the citing act.
{Tape: 3; Side: b; Approx. Time Count: 6.6; Comments: none.}

Rep. Beaudry, this act is called the major facility citing act, he feels the act as it stood was not adequate.
{Tape: 3; Side: b; Approx. Time Count: 8.9; Comments: none.}

Motion/Vote: Question is called for, individual roll call vote; (12-6), Reps. Harper, Raney, Ellingson, Tuss, Schmidt & Swanson vote no, Bill passes out of Committee

EXECUTIVE ACTION ON SJ 13

Motion: DO CONCUR

Discussion: Rep. Raney doesn't like the tone of this bill. He feels if MT wanted to be a party to the negotiations it should have been part of the lawsuit as an intervener; MT wasn't part of the lawsuit and people who aren't part of lawsuits aren't typically involved in the negotiations only parties involved are.

HOUSE STANDING COMMITTEE REPORT

March 24, 1997

Mr. Speaker: We, the committee on **Natural Resources** report that **Senate Bill 224** (third reading copy -- blue) **be concurred in**.

Signed: Dick Knox
Dick Knox, Chair

Carried by: Rep. Beaudry

3-25-97

Committee Vote:
Yes 12, No 6.

641009SC.Hgd

HOUSE NATURAL RESOURCE COMMITTEE

ROLL CALL

DATE OF MEETING: 3/21/97 (Friday)

NAME	Yes	No	Comment
Rep. Bill Tash (VC Maj.)	✓		
Rep. Hal Harper (VC Min.)	✓		
Rep. Bob Raney	✓		
Rep. Jon Ellingson	✓		
Rep. Aubyn A. Curtiss	✓		
Rep. Carley Tuss	✓		
Rep. Trudi Schmidt	✓		
Rep. Emily Swanson	✓		
Rep. Robert R. Story, Jr.	✓		
Rep. Haley Beaudry	✓		
Rep. Douglas T. Wagner	✓		
Rep. Doug Mood	✓		Came at 6:15 Rep. Tash
Rep. Scott J. Orr			excused
Rep. Cliff Trexler	✓		
Rep. Lila V. Taylor	✓		
Rep. Jay Stovall	✓		
Rep. Karl Ohs	✓		
Chairman Dick Knox	✓		

COMMITTEE ABSENTEE BALLOT

Date: 3/21/97

I hereby authorize Rep. Tash

to cast my vote(s) as follows:

SB 97 yes
SB 224 yes
~~SJR 13 yes~~

Representative D K Moore

COMMITTEE ABSENTEE BALLOT

Date: 3/21

I hereby authorize Rep. TASH

to cast my vote(s) as follows:

SB 224 - YES

Representative S J Dy